



March 12, 2019

TESTIMONY OF THE NEW HAMPSHIRE OFFICE OF THE CONSUMER ADVOCATE
ON SB 206, AN ACT RELATIVE TO EXCLUDING THE COST OF LOBBYING AND POLITICAL ACTIVITY
FROM THE RATES OF PUBLIC UTILITIES

Chair Fuller Clark, honorable members of the Committee:

My name is Brian Buckley and I am the Staff Attorney with the New Hampshire Office of the Consumer Advocate. Pursuant to RSA 363:28, the Office of the Consumer Advocate is tasked with representing the interests of residential utility customers at the Public Utilities Commission and before other bodies, including this one. I am before your Committee today to speak in support of SB 206 because excluding the costs of lobbying and other political activity from recovery in the rates of public utilities is good for the ratepayers I represent. In support of this proposition, I make three arguments.

First, the manner in which utility trade associations such as the Edison Electric Institute (EEI) and the American Gas Association (AGA) classify expenses and activities lacks transparency. For example, the last NARUC audit of EEI spending data was 14 years ago. To be clear, there are some benefits that EEI, AGA, and other trade associations offer that should be recoverable from ratepayers such as mutual assistance programs for extreme weather events and knowledge campaigns centered around electrical and gas safety, but how the AGA and EEI allot trade association dues between those activities and those that might relate to political activity, lobbying, or advocacy is obscure at best. To my written testimony I have attached a report from the Energy and Policy Institute which details and supports these assertions.

Second, New Hampshire is not unique in identifying this as an issue of importance; policymakers and regulators in neighboring jurisdictions have also begun to recognize this as an issue which deserves their attention. For example, several years ago in Massachusetts, the Department of Public Utilities (DPU) disallowed various trade association dues and nonprofit contributions unless the utilities could show those organizations provided a direct benefit to Massachusetts' ratepayers. Consumer advocates in California, Missouri, and New York have made similar pushes for disallowance of these above-the line trade association contributions.

Third, although PUC rule 310.02 does in fact prohibit recovery of expenses related to promotional, political, and institutional activities, codifying that prohibition would provide an

even greater assurance to ratepayers that this rule will continue to remain in place for the foreseeable future. More importantly, if this bill were to become law, our office would be able to speak with the authority of the legislature in settlement negotiations at the Public Utilities Commission when demanding an investor-owned utility carry the full burden of proof in demonstrating its trade association dues did not go, directly or indirectly, towards lobbying, issue advocacy, other political activities. And let me assure you, the authority of this honorable body carries great weight with the Commission and the public utilities it oversees.

Because New Hampshire's ratepayers stand to draw substantial benefits from the proposed codification of the prohibition on recovery of political and lobbying activities from the rates of public utilities, I respectfully request that you report this bill out of committee "ought to pass."

Thank you for considering my views. I would be happy to answer any questions.

Sincerely,

A handwritten signature in cursive script that reads "Brian D. Buckley". The ink is dark and the signature is fluid, with a long, sweeping tail on the last word.

Brian D. Buckley
Staff Attorney
Office of the Consumer Advocate

Paying for Utility Politics

How utility ratepayers are forced to fund the Edison Electric Institute and other political organizations

May 2017





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The Energy and Policy Institute is a watchdog organization working to expose attacks on renewable energy and counter misinformation by fossil fuel and utility interests. It does not receive funding from for-profit corporations or grants from government agencies.

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Executive Summary

This report explores how regulated utility companies are including their Edison Electric Institute (EEI) annual payments, along with payments to other trade associations, in their operating expenses. The widespread practice forces ratepayers to pay for political and public relations activities with which they may not agree, and from which they do not benefit. It also has the effect of ratepayers subsidizing the political activities of EEI and other trade associations. Utility commissions have a responsibility to protect ratepayers from paying for industry groups and their political work along with public relations activities. But utilities have become adroit at using EEI, and other organizations, to effectively and quietly influence policy while sheltering their shareholders from the bulk of the associated costs. Almost no other political organizations have the luxury of subsidization enjoyed by EEI and other representatives of the regulated utility industry.

EEI's Revenue, Expenses, Actions - and Why Ratepayers Shouldn't Be Paying for it

EEI is an inherently political organization, and a powerful one. At \$90 million in 2015, EEI's budget is the highest it has been in over a decade, an increase which the nation's electric ratepayers have funded. President Thomas Kuhn made \$4.1 million in 2015 and is one of the highest paid industry association executives. The association's budget is primarily spent on staff, many of whom spend a considerable amount of their time working to help member utilities achieve desired policy and regulatory outcomes; not all of these activities are considered lobbying under the definition EEI uses from the Internal Revenue Code, but their actions are still political in nature.

In EEI's own words, in 2015 it "rebalanced the public conversation through extensive earned media efforts at the national and state levels" to address fixed-cost recovery, "educated regulators and consumers advocates on key industry issues, including capital expenditures that highlight the record-high investments in the grid"; and spent time to make sure that the Federal Energy Regulatory Commission (FERC) "provides compensatory returns on equity that recognize the risks associated with transmission construction."¹

These activities are intended to benefit utilities' bottom line, and it is likely that none would count in EEI's definition of lobbying, which many utility commissions use to determine which fees should not be borne by ratepayers.

¹ EEI 2015 Results In Review available at <http://big.assets.huffingtonpost.com/eeibooklet.pdf>; EEI's 2016 Wall Street Briefing available at http://web.archive.org/web/20160715202904/http://www.eei.org/resourcesandmedia/industrydataanalysis/industryfinancialanalysis/Documents/Wall_Street_Briefing.pdf.

Utility Companies Charging Ratepayers for EEI Dues

Electric utility ratepayers are paying for EEI's activities when an investor-owned utility includes payments to EEI (and other industry trade associations) as part of the company's cost of service in rate requests. Public utility commissioners generally approve a substantial portion of these dues with only minimal oversight, with some notable exceptions. Utility ratepayers are usually unaware that a portion of their electricity bill is going to subsidize EEI. In Florida Power & Light's 2016 rate request, for example, the utility revealed that its ratepayers are on tap to pay more than \$9.5 million in EEI dues from 2015 to 2018.² These EEI dues went unchallenged during the Florida Public Service Commission's consideration of the utility's request to raise rates on ratepayers. A table listing examples of more than two dozen companies recovering their EEI dues from ratepayers is included in an appendix of this report.

Other Political Organizations Beyond EEI Receive Utility Ratepayers Money

EEI is not the only political organization that receives money from utility ratepayers. The American Gas Association, Nuclear Energy Institute, and the U.S. Chamber of Commerce, for example, are all groups that are often included in rate requests so that ratepayers pay for the utility's annual membership fees. Given how these organizations promote fracking and natural gas infrastructure,³ propose bailouts for nuclear power plants,⁴ and spread misinformation regarding the science of climate change,⁵ they are also all political in nature. An examination of Wisconsin Public Service Corporation classification of industry association dues, for example, reveals that the utility proposed that its ratepayers help pay for not only the American Gas Association and the U.S. Chamber of Commerce membership fees, but also both the Republican and Democratic Governors Associations, and the Republican State Leadership Committee.⁶

² Florida Power & Light Industry Association Dues (MFR C-15 draft) available at <https://drive.google.com/file/d/0B-OZwtRThY3LVjRjSVVPTjZ6N28/view>

³ American Gas Association, "Responsible Natural Gas Development" available at <https://www.aga.org/environment/responsible-natural-gas-development>

⁴ Nuclear Energy Institute, "Incentives for Energy Production" available at <https://www.nei.org/Issues-Policy/Economics/Incentives-for-Energy-Production>

⁵ Union of Concerned Scientists, "Who Stands with the U.S. Chamber of Commerce on Climate Change? New Data Says Few (Still)" available at <http://blog.ucsusa.org/gretchen-goldman/who-stands-with-the-u-s-chamber-of-commerce-on-climate-change-new-data-says-few-still-788>

⁶ Wisconsin Public Service Corporation Governmental Relations/Memberships (Docket 6690-UR-124) available at <https://www.documentcloud.org/documents/3227546-Wisconsin-Public-Service-Corporation-Dues.html>

Often these payments are tucked in among industry association dues payments to less political institutions that have been recognized as providing beneficial services, such as the Electric Power Research Institute or North American Electric Reliability Corporation.

Utility Companies Push Back Against Oversight of Their EEI Dues

When third-party organizations or public service commission staffs have attempted to protect ratepayers from funding political organizations in recent years, their attempts have met with fierce resistance from the utility companies. Nevertheless, some auditors at public utility commissions and some consumer advocates either have successfully asked that the burden of proof be placed on a utility company to show how EEI dues benefit ratepayers, or have asked for more financial information regarding EEI's spending in attempts to show commissioners that EEI's spending is intended to benefit shareholders.

Waning Regulatory Oversight of Ratepayers' Paying for Political Memberships

For a time between the 1980's and early 2000's, the National Association of Regulatory Utility Commissioners (NARUC) investigated EEI's misuse of utility customer money for lobbying and public relations. This led to NARUC conducting annual audits of EEI's financial records.⁷ The result was a system of compromise where, based on NARUC's annual audits, regulators ruled that utilities could collect a significantly smaller portion of their EEI dues from ratepayers. For example, the Florida Public Service Commission increased the lobbying portion of EEI dues that utilities were not allowed to recover from ratepayers from 2% in 1982 to roughly 33% in 1984.⁸ The commission also barred utilities from charging ratepayers for payments to EEI's "Media Communications Program."

Over a decade ago, the NARUC audits stopped and consumer advocates have since had difficulty in fully understanding how EEI spends ratepayer money. In 2013, however, The Utility Reform Network had success getting 43.3% of the EEI dues paid by Pacific Gas & Electric' shareholders during that utility's rate request and not ratepayers as the utility originally requested.⁹ Successful oversight of EEI dues has faded away in other states. The independent review of industry association dues that was once provided by NARUC has

⁷ New York Times, "Utility Group Criticized on Funds for Lobbying" available at <http://www.nytimes.com/1984/07/21/business/utility-group-criticized-on-funds-for-lobbying.html>

⁸ Florida Public Service Commission Order (No. 10306, 1981) available at <https://www.documentcloud.org/documents/3141815-Florida-Public-Service-Orders-on-Industry.html#document/p27/a322247>; (No. 13537, 1984) available at <https://www.documentcloud.org/documents/3141815-Florida-Public-Service-Orders-on-Industry.html#document/p158/a327132>

⁹ Proposed Decision before the Public Utilities Commission of the State of California (Docket 14-08-032) available at <https://www.documentcloud.org/documents/3239245-COMPENSATION-to-TURN-for-SUBSTANTIAL.html#document/p8/a331970>

been replaced by an unreliable system of self-reporting by EEI and its utility members, both of whom have an obvious self-interest in maximizing the amount of their dues that will be paid by ratepayers.

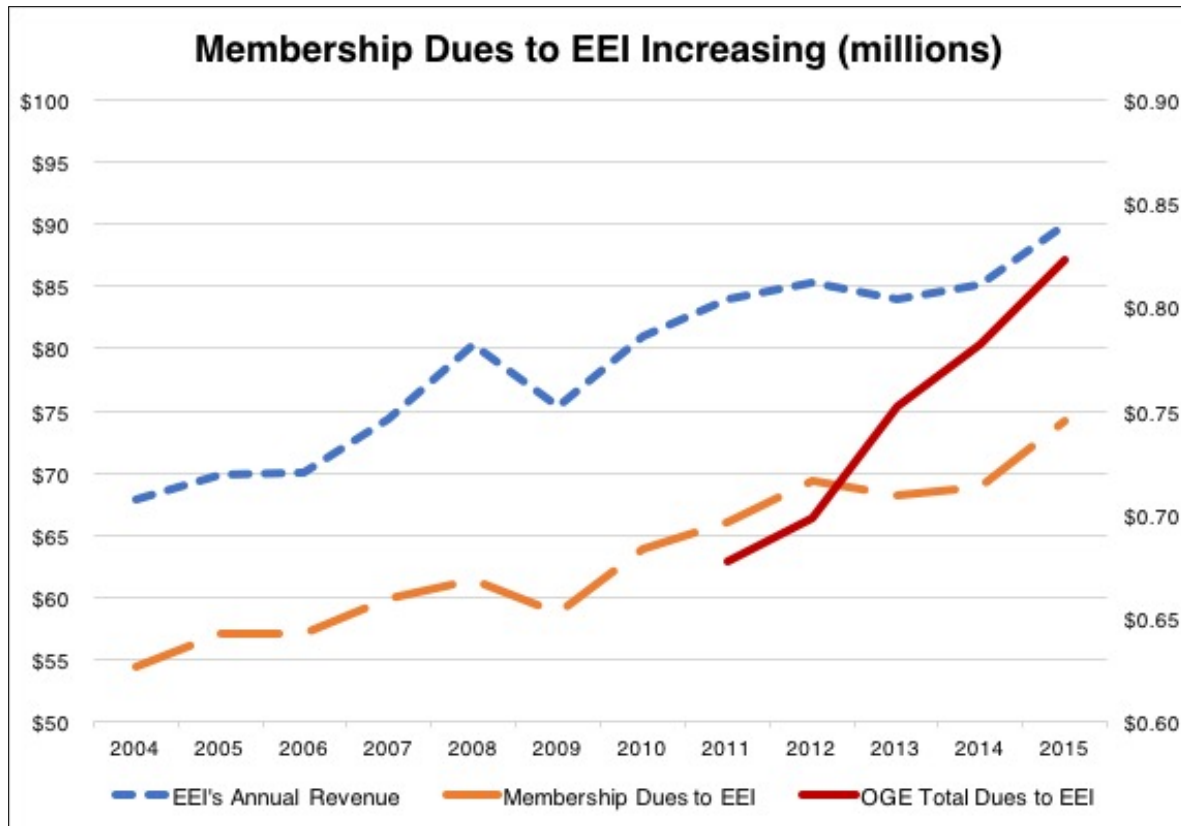
Recommendations

Precedent exists for public officials to determine the percentage of EEI's work that is benefiting ratepayers or utility company shareholders. The following recommendations would help protect ratepayers from funding utilities' political association memberships:

1. Public utility commissioners and their staff should place the burden of proof on utilities to demonstrate the exact percentage of customer money provided to industry groups and other political organizations, including EEI, that benefits their own ratepayers. This is not a recommendation for commissioners to indiscriminately disallow all EEI dues, as certain EEI programs such as storm response coordination may indeed benefit ratepayers. However, utilities should have to disclose the exact benefits that their political industry associations confer to ratepayers for each of their activities in detail. It is insufficient for utilities to only file an annual invoice from an organization that notes the self-determined lobbying percentage as guidance for commissions to determine the appropriate amount charged to ratepayers.
2. Consumer advocates and other parties whose mission is to protect ratepayers, such as attorneys general, should file for discovery in order to receive additional documents to have a better understanding of how a utility company works with their trade associations, and whether that work benefits ratepayers.
3. The National Association of Regulatory Utility Commissioners (NARUC) should revive the Committee on Utility Association Oversight and audit EEI, NEI, and AGA to determine the percentage of their operations which are political in nature and therefore ought not to be funded by ratepayers.
4. NARUC should compile a survey that shows the percentages of dues utility ratepayers are paying to industry organizations and political party focused groups; particularly (though not limited to) EEI; American Gas Association (AGA); Nuclear Energy Institute (NEI); U.S. Chamber of Commerce; Democratic Governors Association; and Republican Governors Association. Once completed and then published, this manual can help utility accounting staff across the country manage the challenges associated with determining industry association dues during rate requests. This report reveals only examples and is not exhaustive.

I. EEI's Revenue, Expenses, Actions - and Why Ratepayers Shouldn't Be Paying for It

Regulated utilities are subject to federal and state rules that are supposed to protect ratepayers from paying for efforts to influence policy and legislation, either by the utilities or their trade associations. However, independent and regulatory oversight of EEI's budget and activities has declined over time and it's worth renewing the question of what exactly ratepayers are paying for when they fund EEI's political and public relations machine.



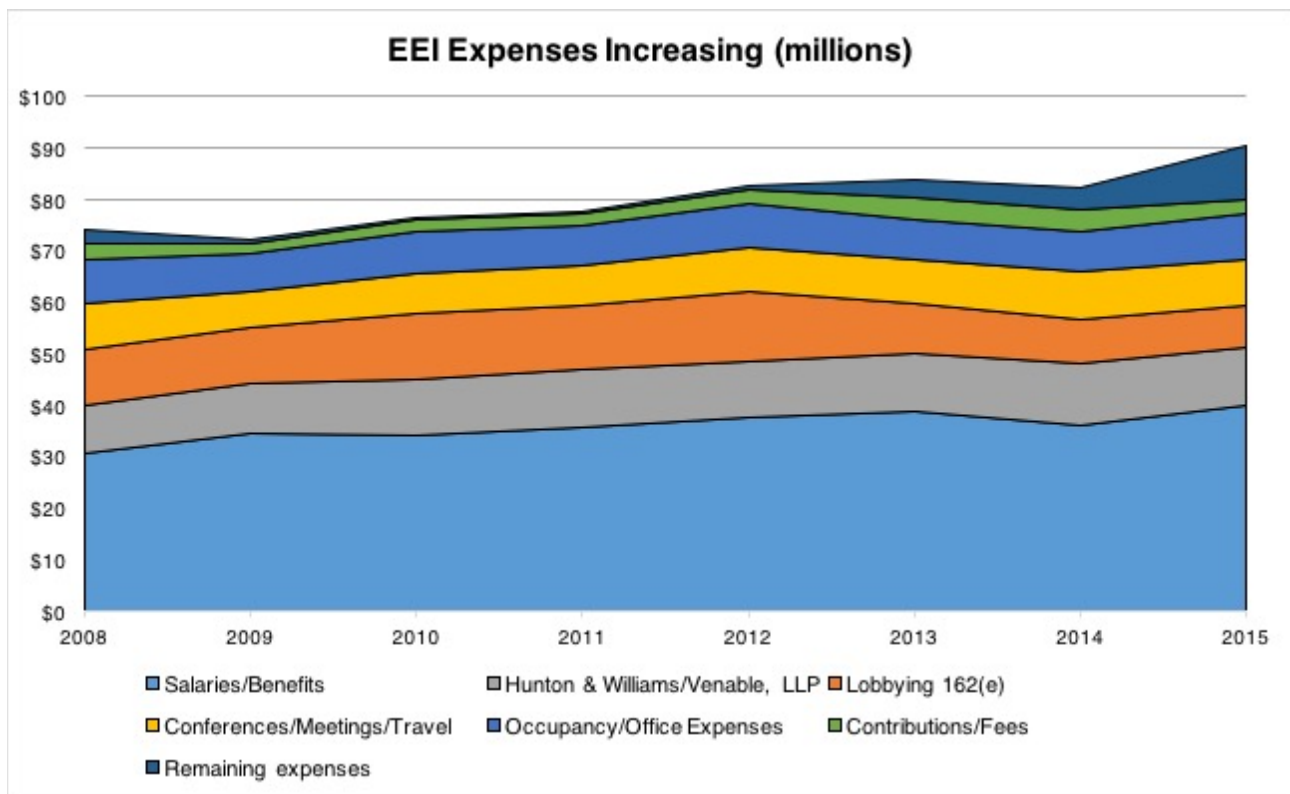
The latest IRS Form 990 filed by EEI reveals that the trade association received a total of \$90 million in revenue and spent that amount as well.¹⁰ Membership dues comprise \$74 million of EEI's revenue, or 82%, the highest percentage since 2004, which suggests that the amount of EEI dues utility companies recover from their ratepayers has also grown over the past decade. For example, invoices from EEI to Oklahoma Gas and Electric Energy Company that were submitted to the Arkansas Public Service Commission reveal member dues increasing every year from 2011 to 2016 - a total of 26% over that timespan.¹¹ Additionally, Florida

¹⁰ Edison Electric Institute 2015 Form 990 available at <https://www.documentcloud.org/documents/3226570-2015-EEI-990.html>

¹¹ Edison Electric Institute invoices to OGE Energy Corp available at <https://www.documentcloud.org/documents/3380957-OGE-Energy-2011-to-2016-EEI-Dues.html>

Power & Light recovered about \$1,450,000 in annual EEI dues from ratepayers in 2008 and is on track to recover more than \$2,450,000 in 2018 - a million dollar annual increase.¹²

With the increase in revenue, EEI's expenditures have grown. Salaries and benefits for employees at the trade association make up \$40 million, 44% of all expenses, and up from \$30 million in 2008. The uptick in salary expenditures could be the result of an increase in executive salaries.



The most recent notable executive hire is former Federal Energy Regulatory Commissioner (FERC) Philip Moeller as a senior vice president. Because Moeller was hired at the beginning of 2016, his salary is not listed in the latest 990.¹³ President Thomas Kuhn made \$4.1 million in 2015, up from \$1.2 million in 2004, and is ranked among the nation's highest paid industry association executives.¹⁴ David Owens, the executive vice president for business operations and regulatory affairs who recently retired, and Brian Wolff, executive vice president for public

¹² Florida Power & Light New Operating Income Schedules and Cost of Capital Schedules (Docket No. 080677-EI) available at <http://www.psc.state.fl.us/library/filings/09/02333-09/02333-09.pdf>; Florida Power & Light Industry Association Dues (MFR C-15 draft) available at <https://drive.google.com/file/d/0B-0ZwtRThY3LVjRjSVVPTjZ6N28/view>

¹³ Edison Electric Institute, "Phil Moeller Joins EEI as Senior Vice President" available at <http://www.prnewswire.com/news-releases/phil-moeller-joins-eei-as-senior-vice-president-300200725.html>

¹⁴ CEO Update, "Inside Compensation: CEO salaries at large associations 2016" available at <https://www.ceoupdate.com/articles/compensation/inside-compensation-ceo-salaries-large-associations-2016-top-paid>

policy and external affairs, made \$1.5 and \$1.2 million in 2015, respectively, each having received a raise of over \$300,000 since 2010.¹⁵

As a registered 501(c)(6) business league, EEI must detail on its annual IRS Form 990 its highest paid consultants, expenses for travel, meetings and conferences, and contributions to other organizations including Section 527 political groups such as the Democratic Governors Association or the Republican Attorneys General Association. Also because it is a 501(c)(6), EEI must report an annual aggregate amount of lobbying and political expenditures, which is all nondeductible, and notify all members of the nondeductible portion of those dues.¹⁶ During rate cases, utilities sometimes produce EEI invoices that self-report the portion of their payments for dues and various programs that go toward the nondeductible portion of lobbying and political expenditures. At the beginning of 2015, for example, EEI told member companies that it estimated lobbying expenses for the year to be only 13% of membership dues and 25% for a significantly smaller requested amount of money that went toward an “Industry Issues” line item separate from general dues.¹⁷ Usually this sort of disclosure occurs when a utility is required by another party in the case to provide evidence that it is not charging ratepayers for EEI’s lobbying. In other cases, utilities are not required to provide even this minimal form of transparency, which puts their ratepayers at risk of being charged for lobbying as EEI itself defines it to the IRS.¹⁸ Nevertheless, the data on the 990s reveal that from 2004 through 2015 EEI expensed a total of \$130.6 million for nondeductible lobbying and political expenditures, which is an average of just 14% of its total expenses during that time period (\$909.8 million), and an average of 17% of total dues from its members (\$759.4 million).

However, EEI engages in and incurs expenses for a host of other political activities that are beyond the set of costs that are categorized as nondeductible section 162(e) dues. In fact, as detailed later in the report, the National Association of Regulatory Utility Commissioners had been auditing EEI data until the early-2000s. One of the final audits from NARUC revealed that 50% of EEI’s expenditures went to the following categories: legislative advocacy; regulatory advocacy; advertising; marketing; public relations; legislative policy research; regulatory policy research. All of these are expenditures that should not be paid for by customers.

¹⁵ Edison Electric Institute 2010 Form 990 available at <https://www.documentcloud.org/documents/1375241-2010-eei-990.html>

¹⁶ IRS, “Nondeductible Lobbying and Political Expenditures” available at https://www.irs.gov/pub/irs-tege/notice_1333.pdf

¹⁷ Northern Indiana Public Service Company, Edison Electric Institute Dues, (MSFR1-5-8(a)(2)(A) available at <https://www.documentcloud.org/documents/3111262-Northern-Indiana-Public-Service-Company-Invoices.html#document/p204/a318825>

¹⁸ Appalachian Power Company and Wheeling Power Company Cost of Service (CAD 1 J-03) available at <https://www.documentcloud.org/documents/3224308-Appalachian-Power-AEP-Membership-Dues.html#document/p42/a330971>

Despite the relatively small amounts documented as “political expenditures and lobbying” in its 990, EEI annual reports provided to members boast of the “results” the trade association says it achieved, almost all of which appear entirely political in nature. The objectives include working to increase utilities’ returns on equity, providing more venues for lobbyists to gain access to regulators, weakening EPA regulations under the Clean Air and Water Acts, and undermining policies supportive of distributed renewable energy resources, among other explicitly political endeavors. In fact, documents handed out at the 2016 annual EEI CEO meeting revealed some of the specifics of what the trade association tells its members it has achieved in 2015 and its goals for 2016.¹⁹ The objectives include reforming electric rates and advocacy for increased fixed and demand charges, while other priorities deal with EPA regulations, tax issues, litigation efforts, and outreach activities to “minority and community organizations.” Some of these expenses might fall under what EEI self-reports as lobbying to its members, but many of them likely would not.

More examples of EEI’s achievements from internal documents

- “EEI engaged in extensive advocacy and outreach to EPA and other stakeholders throughout EPA’s Clean Power Plan rulemaking” that included a “phase-in of emission reductions over the entire length of the program ... two-year delay in implementation ... ability for states to shape their own glide paths ... and a less stringent standard for new coal-based units.”
- EEI continued its “multi-state effort and in coordination with member companies” to increase fixed charges and roll back net metering. Among the efforts, EEI:
 - “Engaged with state policymakers, consumer advocates, and other key stakeholders”
 - “Rebalanced the public conversation through extensive earned media efforts at the national and state levels”
 - “Convened member companies, state policymakers, and consumer advocates through the Critical Consumer Issues Forum to develop consensus principles on the evolving distribution system”
 - “Deployed a team of EEI and third-party experts to engage in state proceedings, forums, earned media, policy conversations, and earned media”
 - “Partnered with First Solar and The Brattle Group to conduct and promote a study highlighting the economic and environmental benefits of utility-scale solar compared to rooftop solar”
 - “Focused on increasing awareness of consumer education and protection issues”

¹⁹ Edison Electric Institute 2015 Results In Review available at <http://big.assets.huffingtonpost.com/eeibooklet.pdf>; 2016 EEI Corporate Goals available at <http://big.assets.huffingtonpost.com/eeigoal.pdf>

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- “Advocated for a reduction in aggregate rate subsidies to DG solar and for residential rate reform to encourage rate designs that are based on cost-of-service”
 - “Advocated that any new ozone standard” be at the “top range” of the proposal from EPA
 - “Participated in Supreme Court litigation to help clarify the line between federal and state jurisdiction over electric rate matters”
 - “Through We Stand For Energy, EEI continues to educate and unite more than 250,000 electricity consumers and stakeholders across the country and to advocate for smart energy solutions that ensure electricity remains safe, reliable, affordable, and increasingly clean”
 - “EEI continued to educate lawmakers about industry priorities for comprehensive tax reform, including normalization, the treatment of excess deferred taxes, corporate and dividend tax rates, the phase-down of subsidies, and the deductibility of interest on corporate debt”
 - “EEI successfully advocated for the inclusion of several end-user protections in the House-passed version of the Commodity Exchange Act reauthorization bill and continued to educate the Senate on these issues”
 - “EEI supported provisions” in the House passed broad energy bill, including language that:
 - “Make incremental reforms to the federal permitting and licensing process for natural gas pipelines and hydro facilities”
 - “Repeal the ban on the use of fossil-fueled energy in federal buildings”
 - “EEI’s PowerPAC continues to create opportunities to educate members of Congress on key industry issues. In 2015, PowerPAC hosted or co-hosted more than 120 political events for federal elected officials and candidates, and raised more than \$2 million for their campaigns”
 - “Engaged in congressional efforts to require the EPA and the Army Corps of Engineers to withdraw, narrow, and re-propose the final waters of the U.S. rule. EEI also supported UWAG participation in litigation over the rule”
 - “EEI provided support to Western Electricity Coordinating Council stakeholders for developing a contract-based funding mechanism for Peak Reliability, which was approved in June”
 - “EEI educated NARUC on key industry issues, and conducted educational dialogues for state regulators with Northwestern, Tulane, and New Mexico State Universities”
 - “EEI’s ongoing Wall Street/Regulator Dialogues educated regulators and consumer advocates on key industry issues, including capital expenditures that highlight record-high investments in the grid”
 - “EEI-sponsored dialogues and forums brought together FERC commissioners, state policymakers, consumers, Wall Street analysts, and industry leaders to discuss key issues facing the industry”

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- “EEI established new strategic partnerships with key state- and community-based organizations to further educate stakeholders and elected officials on the value of the grid and other industry and consumer priorities”
 - “Launch of a national education and advocacy strategic initiative to highlight the industry’s transformative leadership and to create a heightened awareness of and appreciation for member company initiatives”
 - Develop “industry positions on the regulatory treatment of energy storage”
 - “Expand collaboration and outreach to achieve enhanced support for utility-sponsored programs, products, and services on both sides of the meter”
 - “Continued advocacy at the CFTC and Congress that builds on efforts to reduce the regulatory burden of the Dodd Frank Act on derivative end users”
 - “Ongoing focus on wholesale energy market price formation issues”
 - “Continued advocacy for industry priorities in comprehensive tax reform”
 - “Continued work with Congress and the IRS related to the implementation of the Cadillac Tax”
 - “Ongoing advocacy for compensatory returns on equity”
 - Engage FERC with regards to PURPA implementation
 - “Continued Growth and effective use of We Stand For Energy”
 - “Development of a 2016 Political Party Convention Program and voter education effort”
 - “Expand outreach to regional and state forums, minority and community organizations, regulatory staffs, and academic institutions”

Additionally, a recent filing by NV Energy details the years 2012 and 2013 accomplishments that EEI achieved for its members, and what it was hoping to attain and spend time pursuing during those years²⁰:

- “Through the multi-faceted Defend My Dividend campaign, secured permanent parity between the tax rates for dividends and capital gains”
- “Advocated that coal ash be regulated as non-hazardous”
- “Secured favorable pension funding stabilization provision in legislation”
- “Secured a FERC policy statement that continues the favorable incentives policy for qualifying transmission projects, including ROE adders”
- “Continued outreach to state-level policymakers and consumers through the Critical Consumers Issues Forum and other forums”
- “EEI continues to advocate for equitable distributed generation and net metering policies that end cost shifting and ensure all electricity customers pay their fair share toward the cost of the grid. Among our efforts, EEI:

²⁰ NV Energy Response to Data Requests, Public Utilities Commission of Nevada, available at <https://www.documentcloud.org/documents/3242975-NV-Energy-Dues-with-EEI-Letter-to-CEOs.html#document/p7/a332460>

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- “Launched a multi-faceted industry-wide campaign calling for net metering updates in the states”
 - “Conducted national public opinion research and polling to guide messaging and collateral development”
 - “Published A Policy Framework for Designing Distributed Generation Tariffs to advocate for appropriate DG resources”
 - “Commissioned third-party studies and assembled experts to engage in state proceedings/forums”
 - “Worked to educate member companies and key constituents through Webinars, meetings, and forums”
 - “Released, through IEE, an issue brief: The Value of the Grid to DG Customers”
 - “Convened three regional summits and participated in the Critical Consumer Issues Forum consisting of state commissioners, consumer advocates, and EEI member companies”
 - “Created a members-only Internet workroom and online toolkit of research and advocacy resources”
 - “Worked to secure favorable resolutions or statements from several national and state policy organizations”
 - “EEI is educating lawmakers about industry priorities for comprehensive tax reform, including normalization, the treatment of excess deferred taxes, corporate and dividend tax rates, and the deductibility of interest on corporate debt”
 - “Through a new white paper and outreach to FERC, NARUC, and the media, EEI is seeking compensatory returns on equity (ROEs) that reflect the risks of development and the long asset life of transmission facilities”
 - “EEI continues to deploy its smart grid third-party experts to assist member companies in addressing data privacy, radio frequency, and opt-out issues”
 - “EEI’s ongoing Wall Street regulatory dialogues educated regulators and consumer advocates on DG and net metering issues, as well as the importance of full rate recovery and reasonable ROEs to support the capital expenditures involved in the build-out of utility infrastructure and environmental compliance”
 - “In support of APS, achieved a fixed charge for rooftop solar customers in Arizona to support the grid”
 - “EEI led the development of industry comments on EPA’s proposed effluent limitations guidelines rule, advocating for flexibility and the use of cost-effective and feasible technologies”
 - “EEI hosted an October External Affairs Conference for member company federal, state, and local government affairs representatives to discuss advocacy tools and strategies”
 - “EEI educated NARUC on key industry issues; this outreach culminated in several positive resolutions”

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- “Fundamental corporate tax reform, including the treatment of normalization, excess deferred taxes, deductibility of debt interest, and corporate and dividend tax rates”
 - “Regulatory pushback on authorized returns and CAPEX programs”
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Many of the industry’s achievements are results of EEI staff doing work that is not technically considered nondeductible, but is certainly political in nature by any reasonable definition. Furthermore, the intended benefit of these actions is to benefit the shareholders of its members and to assist members with their own efforts to benefit shareholders. In fact, when EEI began its multi-state effort and coordination with member companies to address declining sales and the increase usage of distributed generation, it is clear that its members leapt into action. EEI gave a presentation to member CEOs in 2012 regarding the threats to the industry’s earnings, and what groups to target to achieve favorable policies.²¹ Then in 2013, EEI released a report that said threats to the business model can be “partially addressed” by implementing fixed or demand charges.²² Utility companies have subsequently filed requests to increase fixed charges and implement demand charges at alarming rates, despite the fact that these charges harm low-income ratepayers.²³ The latest data, compiled by the N.C. Clean Energy Technology Center, shows that in 2016, utilities made 71 requests in 35 states plus D.C. to increase fixed charges on all residential ratepayers by at least 10%.²⁴

In addition to its political activities, EEI funds domestic organizations, consultants, and lawyers that are also conducting work that benefits utility company shareholders. Consistent beneficiaries of EEI money over the years have been Hunton & Williams LLP and Venable LLP. Hunton & Williams is the counsel for the Utility Air Regulatory Group (UARG), Utility Water Act Group (UWAG), and Waters Advocacy Coalition (WAC). Venable represents the Utilities Solid Waste and Activities Group (USWAG). Since 2008, Hunton & Williams has received \$64.7 million from EEI and Venable has received \$21.5 million.

In a comment to the EPA, UARG described itself as a “not-for-profit association of individual electric generating companies and national trade associations that participate on behalf of its members collectively in administrative proceedings under the Clean Air Act (“CAA”), and in

²¹ Washington Post, “Utilities wage campaign against rooftop solar” available at https://www.washingtonpost.com/national/health-science/utilities-sensing-threat-put-squeeze-on-booming-solar-roof-industry/2015/03/07/2d916f88-c1c9-11e4-ad5c-3b8ce89f1b89_story.html?utm_term=.4e1f3778a566

²² Edison Electric Institute, “Disruptive Challenges” available at <http://www.eei.org/ourissues/finance/documents/disruptivechallenges.pdf>

²³ Synapse Energy Economy, “Caught in a Fix” available at <http://consumersunion.org/wp-content/uploads/2016/02/Caught-in-a-Fix-FINAL-REPORT-20160208-2.pdf>

²⁴ NC Clean Energy Technology Center, “The 50 States of Solar Report: 2016 Annual Review and Q4 Update” available at <https://nccleantech.ncsu.edu/the-50-states-of-solar-report-2016-annual-review-and-q4-update/>

litigation arising from those proceedings, that affect electric generators.”²⁵ However, UARG does not have a website and it is not clear what this organization does besides lobbying the EPA, suing the EPA or researching and preparing for suits against the EPA. UARG rejects inquiries about its membership and operation activity from the media.

USWAG does have a website. It describes itself as “the trade association of over 110 utility operating companies, energy companies and industry associations, including the Edison Electric Institute, the National Rural Electric Cooperative Association, the American Public Power Association, and the American Gas Association.”²⁶ Its stated mission is to engage in regulatory advocacy pertaining to the Resource Conservation and Recovery Act, Toxic Substances Control Act, and Hazardous Materials Transportation Act.

An examination of UARG, UWAG, WAC, and USWAG actions reveals that these collective bodies were involved with rules to reduce mercury, pollution affecting regional haze, and carbon dioxide, the Clean Water Act, and EPA’s classification that coal ash is non-hazardous.

A 2015 letter from EEI to member CEOs stated that only 6.2% of USWAG expenditures was used to influence legislation for the 2014 calendar year while 68.8% of WAC expenses was devoted to nondeductible actions. The EEI letter did not detail any UARG or UWAG expenditures.²⁷ Yet, Northern Indiana Public Service Company (NIPSCO) adjusted all 2014-2015 UARG payments through their EEI dues to reflect that they were used for lobbying purposes.²⁸ The decision by NIPSCO follows an adjustment by Tucson Electric Power (TEP) from 2008 when it also noted that 100% of UARG dues were devoted to nondeductible activities. The Arizona Corporation Commission staff recommended that these expenditures not be borne by ratepayers.²⁹ However, in November 2016, Kentucky Utilities Company allocated \$148,785 for “EEI UARG” as a general expense to be paid for by its ratepayers, as did Wisconsin Electric Power Company for its 2015 UARG dues through EEI.³⁰

²⁵ Comment submitted by Lucinda Minton Langworthy, Counsel, Hunton & Williams on behalf of the Utility Air Regulatory Group, available at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0572-0161>

²⁶ About USWAG, available at <http://www.uswag.org/About/Pages/default.aspx>

²⁷ Edison Electric Institute March 15, 2015 letter available at <https://www.documentcloud.org/documents/3244482-Centerpoint-Energy-Dues.html#document/p35/a332623>

²⁸ Northern Indiana Public Service Company Edison Electric Institute Dues, (No.44688) available at <https://www.documentcloud.org/documents/3111258-Northern-Indiana-Public-Service-Company-Dues.html#document/p107/a331762>

²⁹ Arizona Corporation Commission Application of Tucson Electric Power Company (No.E-01933A-07-0402) available at <https://www.documentcloud.org/documents/3284782-ACC-Transcript-EEI-Dues-2008.html#document/p117/a334770>.

³⁰ Kentucky Utilities Company Miscellaneous General Expenses (No.2016-00370) available at <https://www.documentcloud.org/documents/3284802-Kentucky-Utilities-Company-Rate-Request-Response.html#document/p566/a334597>; Wisconsin Electric Power Company Industry Association Dues available at <https://www.documentcloud.org/documents/3290885-Wisconsin-Electric-Power-Company-2012-2013-2015.html>.

Besides Hunton & Williams and Venable, some of the largest and some of the most controversial recipients of EEI money over the years include:

Sample of EEI's Contributions to Consultants and Organizations (2008-2015)			
Daniel J. Edelman (Edelman PR)	\$1,774,305	American Legislative Exchange Council	\$142,667
NetCommunications	\$750,599	National Conference of State Legislators	\$125,931
Thomas Alva Edison Foundation	\$630,604	Third Way	\$100,000
Republican State Leadership Committee	\$255,000	Americans For Tax Reform	\$75,000
Democratic Governors Association	\$205,000	National Black Chamber of Commerce	\$25,000
National Labor and Management Public Affairs Committee	\$185,400	State Policy Network	\$10,000
Congressional Black Caucus/Foundation	\$185,400	Committee for a Constructive Tomorrow	\$8,000
U.S. Chamber of Commerce	\$180,050	Americans For Prosperity	\$7,500

Several of the groups listed in the table are controversial because of their work to influence decision makers and the public. For instance, the Republican State Leadership Committee uses its resources to get more Republicans elected to state legislatures and utility commissions, while the Democratic Governors Association is dedicated to helping Democrats win gubernatorial races. These contributions are likely considered nondeductible, but donations to 501(c)(3) groups are likely getting expensed by ratepayers through their utilities. The American Legislative Exchange Council (ALEC), a 501(c)(3), provides state legislators with so called “model policies” used in attempts to roll-back state laws requiring utilities to increase their use of renewable energy and reduce their carbon dioxide emissions.³¹ EEI has continued to fund ALEC even as some of its member utilities have quit over ALEC’s controversial attacks on clean energy policies. Meanwhile, the National Black Chamber of Commerce President and CEO Harry Alford, another (c)(3) group, regularly testifies or writes

³¹ Mother Jones, “ALEC’s Campaign Against Renewable Energy,” available at <http://www.motherjones.com/environment/2013/12/alec-calls-penalties-freerider-homeowners-assault-clean-energy/>; PBS Newshour, “Has Exxon Mobil misled the public about its climate change research?” available at <http://www.pbs.org/newshour/bb/exxon-mobil-mislead-public-climate-change-research/>

columns advocating against environmental regulations, and Americans For Prosperity actively runs political campaigns to build opposition against climate change and renewable energy legislation.³²

Some of EEI's contributions fund conference sponsorship, which helps EEI buy influence and access to decision makers or to organizations that can sway decision makers. In fact, audio released in March 2017 revealed EEI's director of external affairs, Todd Wynn, speaking on a panel at the State Policy Network conference, another (c)(3), enlisting third-parties to help the industry implement more fixed charges.³³ These conferences and events are also opportunities for EEI to make sure its objectives are achieved. Emails between EEI and New Mexico State University Center for Public Utilities reveal that EEI's Elizabeth Stipnieks, director of regulatory relations, helped choose speakers and the agenda for conferences attended by regulators and agency staffers.³⁴

In April 2016, documents surfaced showing that EEI had hired a public relations/crisis communications firm, Maslansky + Partners (also listed as an EEI Associate Member) to rebrand the electric utility industry and overcome the negative perceptions consumers have about the lack of progress utilities have made on renewable energy and environmental issues.³⁵ Thomas Fanning, the CEO of Southern Company and chairman of EEI, hailed the resulting "Lexicon Project" as an opportunity for utilities to assume an "offensive posture" on energy policy.³⁶ A presentation and discussion occurred at the January 2016 CEO Board Meeting in Arizona. This event is an example of a public relations expense that is aimed primarily at helping member companies achieve their political goals at all levels of government, and simultaneously counter the negative publicity that occurs when companies file for rate increases or propose new fees.

Utilities are already incorporating the recommendations that Maslansky + Partners made to the CEOs into company statements in an effort to change the public's attitude; one element of the Lexicon advised rebranding utility-scale solar as "universal solar." Rooftop solar would be

³² Congressional Hearing "Reality Check: The Impact and Achievability on EPA's Proposed Ozone Standard" Presented by Harry Alford available at <http://docs.house.gov/meetings/SY/SY00/20150317/103159/HHRG-114-SY00-Wstate-AlfordH-20150317.pdf>; Environment America, "Blocking the Sun" available at <http://www.environmentamerica.org/reports/ame/blocking-sun>

³³ UtilitySecrets "Audio: Edison Electric Institute Director of External Affairs Enlists Third-Parties To Help Attack Rooftop Solar" available at <http://www.utilitysecrets.org/edison-electric-institute-state-policy-network-attack-rooftop-solar/>

³⁴ Energy and Policy Institute, New Mexico State University Center for Public Utilities, available at <http://www.energyandpolicy.org/utility-industry-influence-at-universities/new-mexico-state-university-center-for-public-utilities/>

³⁵ Huffington Post, "This Messaging Guru Is Helping Utilities Clean Up Their Appearance" available at http://www.huffingtonpost.com/entry/messaging-utilities-solar-power_us_56f45cd6e4b014d3fe22b572

³⁶ E&E News "Southern's Fanning sees his industry driving U.S. economic success" available at <http://www.eenews.net/stories/1060040248>

reframed with the term “private solar.” The new vocabulary is trickling into EEI member utilities’ statements:

- Eric Silagy, president and CEO of Florida Power & Light, used the term “private solar” when endorsing a controversial ballot initiative in Florida, which would have opened the door to rolling back net metering incentives for rooftop solar if it had passed.³⁷
- American Electric Power Chairman, President and CEO, Nick Akins, used the term “universal solar” in an interview; AEP has also staked out a position that “large-scale universal solar is a better alternative to private solar.”³⁸
- Public Service Electric and Gas Renewables and Energy Solutions Vice-President Courtney McCormick, used the term “universal solar” in an article about the utility constructing 33 megawatts of solar over the next three years;³⁹
- Rocky Mountain Power External Communications Director, Paul Murphy, used the term “universal solar” in a letter to the editor about how the company embraces solar energy.⁴⁰

All of these examples demonstrate the need for more oversight in order to better understand whether or not the portion of utilities’ payments to EEI that are ultimately paid by ratepayers are used to pay for political and public relations activities that provide no clear customer benefit.

II. Utility Companies Charging Ratepayers for EEI Dues

Each state utility commission determines whether ratepayers or shareholders should pay for membership dues differently, and each utility, including utilities in the same state, follows different procedures for reporting.

³⁷ Florida Politics, “Eric Silagy: Florida Power & Light endorses solar amendments; urges optimism about clean energy in Florida” available at <http://floridapolitics.com/archives/220533-eric-silagy-florida-power-light-endorses-solar-amendments-highlights-floridas-clean-energy-progress>

³⁸ The Columbus Dispatch, “AEP wants to lead Ohio solar-power development” available at <http://www.dispatch.com/content/stories/business/2016/04/26/aep-wants-to-lead-ohio-solar-power-development.html>; AEP Universal Solar available at <https://www.aepsustainability.com/business/innovation/solar.aspx>

³⁹ Power-Technology “PSE&G receives approval from NK BPU to extend Solar 4 All program” available at <http://www.power-technology.com/news/newspseg-gets-approval-from-nk-bpu-to-extend-solar-4-all-programme-5685927>

⁴⁰ The Salt Lake Tribune, “Letter: Rocky Mountain Power moves ahead on solar power” available at <http://www.sltrib.com/opinion/4248822-155/letter-rocky-mountain-power-moves-ahead>

For instance, a document filed by Southern Company's subsidiary Georgia Power details its 2016 dues to EEI.⁴¹ The filing reveals that the amounts that are coded to "426.4" and "930.2." The codes are from the Federal Energy Regulatory Commission (FERC) accounting code. The appendix of this report explains in more detail the different FERC codes. In short, 426.4 is used for expenditures that are for lobbying and influencing public opinion and public officials. These amounts should be charged to shareholders. Account 930.2 is used for miscellaneous general expenses and typically includes industry association dues. Amounts coded to 930.2 are generally charged to ratepayers. In this instance, Georgia Power proposed \$698,521 of EEI dues to be charged to its ratepayers, and \$290,481 to shareholders - a 71% to 29% split.

Allocation of Southern Company 2016 EEI Dues to Georgia Power Company				
	2016			
Minimum Dues	\$0			
Remainder of Regular Dues	<u>\$881,534</u>			
Total Regular Dues	\$881,534			
Industry Structure Assessment	\$92,705			
Mutual Assistance Program	\$2,109			
The Edison Foundation - Contribution	\$12,653			
Total EEI Dues Allocated to Georgia Power	<u>\$989,002</u>			
Industry Structure Assessment Related to Lobbying	35.00%	426-40000	Lobbying and Related Expenses - BTL	\$32,447
Remaining Industry Structure Assessment	65.00%	426-50000	Other Miscellaneous Business Expenses - BTL	\$60,259
The Edison Foundation - Contribution	100.00%	426-10030	Donations - BTL	\$12,653
Portion of Regular Dues allocated to Lobbying	21.00%	426-40000	Lobbying and Related Expenses - BTL	\$185,122
Portion of Regular Dues allocated to Advertising*	2.30%	930-10180	Industry Sponsored Advertising Costs - ECAP - ATL	\$20,275
Remaining Regular Dues and Mutual Assistance Program	76.70%	930-20200	Association Dues and Assessments - ATL	<u>\$678,246</u>
				<u>\$989,002</u>

*Estimate based on actual advertising expenditures.

A document filed in March 2016 by a public utility auditor for the Oklahoma Corporation Commission (OCC) shows the EEI dues Oklahoma Gas and Electric proposed to have its ratepayers in Oklahoma pay: \$670,609.⁴² The OCC auditor appears to have allowed 100% of that amount.

⁴¹ Georgia Power Company Allocation of EEI Dues available at <https://www.documentcloud.org/documents/3237843-Georgia-Power-Dues-to-Edison-Electric-Institute.html#document/p7/a331581>

⁴² Oklahoma Gas and Electric Disallowance in Civic Dues & Community Activities Expenses available at <https://www.documentcloud.org/documents/3111578-Sharhonda-Dodoo-PUD-Testimony-OGE-Dues.html#document/p6/a318911>

Table 1: Disallowance in Civic Dues & Community Activities Expense

<u>Dues And Donation Description</u>	<u>Allocated Amount after Pro-Forma</u>	<u>Disallowed Percentage</u>	<u>Allowed Percentage</u>	<u>Disallowed Amount</u>	<u>Allowed Amount</u>
Chambers Of Commerce Memberships	\$140,161	50%	50%	\$70,080.50	\$70,080.50
Chambers Of Commerce Others	\$14,167	50%	50%	\$7,083.50	\$7,083.50
Economic Development (proforma)	\$0	N/A	N/A	\$0	\$0
EEL Membership	\$670,609	0%	100%	\$0	\$670,609
Other Membership	\$77,019	50%	50%	\$38,509.50	\$38,509.50
Professional Membership	\$373,809	0%	100%	\$0	\$373,809
Sponsorship (Proforma)	\$0	N/A	N/A	\$0	\$0
Grand Total	\$1,275,765.00			\$115,673.50	\$1,160,091.50

Similarly, a Florida Power & Light spreadsheet submitted to the PSC shows the utility charged \$2,290,051 for its EEI expenses under FERC “930” in 2015.⁴³ FPL also refers to its policy of recording expenses for lobbying, civic, political and related activities as “below the line” expenses, which means it is claiming that those expenses should be charged to shareholders. Because FPL does not disclose these expenses, the claim is impossible to verify.

Madison Gas & Electric (MGE) summarizes all of the association dues and corporate memberships by amount and FERC code. MGE asks for half of the total EEI dues for test year 2017 to be recovered in rates.⁴⁴ It appears the 50% charge to shareholders is a result of a 1985 decision that required the utilities to include only 50% of EEI dues in the test year income statement.⁴⁵ The memo also details what should be allocated for the American Gas Association and EEI’s “U Groups.”

⁴³ Florida Power & Light Rate Case Industry Association Dues available at <https://drive.google.com/file/d/0B-0ZwtRThY3LVjRjSVVPTjZ6N28/view>

⁴⁴ Madison Gas and Electric Company Detail Summary of All Industrial Association Dues, Corporate Memberships available at <https://www.documentcloud.org/documents/3100475-Madison-Gas-and-Electric-Industrial-Association.html>

⁴⁵ Public Service Commission of Wisconsin Departmental Correspondence available at <https://www.documentcloud.org/documents/3459194-1985-Wisconsin-PSC-Memo-Association-Dues.html>

**Madison Gas and Electric Company
Information for Docket 3270-UR-121
Initial Data Request #61**

Detail Summary of all Industrial Association Dues, Corporate Memberships, etc

<u>Work Activity</u>	<u>Expensed in FERC</u>	<u>Description</u>	<u>Actual 2013</u>	<u>Actual 2014</u>	<u>Actual 2015</u>	<u>Test Year 2017</u>		
						<u>In case</u>	<u>*NRR</u>	<u>Total</u>
2013	930	EEI dues	126,972	129,071	135,992	67,500	67,500	135,000
2045	930	Industry Organization Dues	175,253	204,599	264,985	70,000	-	70,000
2147	930	AGA dues	111,846	107,652	110,450	87,030	29,010	116,040
2024	930	WUA dues	57,546	44,266	41,585	25,000	25,000	50,000
2026	930	Various dues	32,779	59,260	43,585	3,480	40,500	43,980
2027	930	Various dues	25,287	16,377	18,570	-	15,000	15,000

* - NRR - Not Recoverable in Rates

PUBLIC SERVICE COMMISSION OF WISCONSIN

DEPARTMENTAL CORRESPONDENCE

FILE NO.

February 11, 1985

TO: Accounts and Finance Audit Staff

FROM: Conrad A. Oleson, Administrator *Conrad*

SUBJECT: ASSOCIATION DUES - SUPERSEDES MY MEMO OF AUGUST 22, 1984
AND AUGUST 30, 1984

All dues listed below should be included in your test
year income statements at the following levels:

~~U&TA~~ - 0%

WSTA - 90%

EEI - 50%

EPRI -100% - w/two conditions: 1) payment made
directly to EPRI
2) payment made no
earlier than when
due

AGA - 50%

GRI -100%

WUA - 50%

EEI "U Groups" - 50%

AIF - 0%

Chamber of Commerce & Like Groups - 0%

However, Wisconsin Electric Power Company recently proposed to charge \$728,712 to EEI (along with \$223,804 to EEI for the Utility Air Regulatory Group) to its ratepayers, and

allocated only \$217,668 of the total amount to EEI, 22.8%, to FERC Account 426.⁴⁶ The filing also shows a 30% increase of dues to EEI from 2012 to 2015 at the expense of Wisconsin Electric Power Company ratepayers.

WISCONSIN ELECTRIC POWER COMPANY			
	2015	2013	2012
Industry Association Dues			
930.2 Miscellaneous General Expense			
Edison Electric Institute	728,712	643,001	561,175
Edison Electric Institute-UARG	223,804	253,166	193,151
Michigan Electric & Gas Association	19,958	21,148	18,541
AGA	137,571	137,569	141,610
	<u>1,110,045</u>	<u>1,054,884</u>	<u>914,476</u>

In other dockets, utilities do not make clear what FERC accounts they are using for their trade association dues, such as in CenterPoint Energy's 2014 request of \$606,847 for EEI.⁴⁷

CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC INDUSTRY DUES - SUMMARY For the Year Ending December 31, 2014	
DESCRIPTION	AMOUNT
E SOURCE COMPANIES LLC	\$ 33,600
EDISON ELECTRIC INSTITUTE	606,847
EPRI	3,093,892
INDUSTRY COUNCIL ON THE ENVIRONMENT	500
SMART GRID CONSUMER COLLABORATIVE	10,000
SOUTHEASTERN ELECTRIC EXCHANGE INC	11,246
TEXAS A&M UNIVERSITY	10,000
UTILITIES TELECOM COUNCIL	20,000
Misc Items Under \$500	495
TOTAL 2014 INDUSTRY DUES	<u>\$ 3,786,580</u>

⁴⁶ Wisconsin Electric Power Company Industry Association Dues available at <https://www.documentcloud.org/documents/3290885-Wisconsin-Electric-Power-Company-2012-2013-2015.html#document/p1/a334773>

⁴⁷ CenterPoint Energy Houston Electric Charitable Contributions and Donations available at <https://www.documentcloud.org/documents/3244482-Centerpoint-Energy-Dues.html>

Filings by Indianapolis Power & Light and NV Energy reveal the total amount sent to EEI from the utility holding companies AES Corporation and Berkshire Hathaway Energy. The documents reveal the percentages the utility subsidiaries add to their operating expenses. In 2015, NV Energy's EEI dues were \$661,673, of which 84% (\$556,593) was allocated in FERC account 930 for ratepayers to pay. A total of \$2.28 million was billed to Berkshire Hathaway Corporation by EEI.⁴⁸

MEC, PacifiCorp, and NV Energy 2015 EEI Dues Calculation (NV Energy Portion) ✓				
Customers (excludes non-regulated)				
160,634 @	0.243 =	39,034		
385,522 @	0.095 =	36,625		
640,196 @	0.087 =	55,697		
<u>2 1,186,352</u>			131,356	
Revenues				
580,008 @	0.142287 =	82,528		
580,008 @	0.083 =	48,141		
1,867,739 @	0.061 =	113,932		
<u>1 3,027,755</u>			244,601	
Owned Generating Capacity				
801,381 @	0.037 =	29,651		
1,869,889 @	0.032 =	59,836		
4,600,729 @	0.013 =	59,809		
<u>2 7,272,000</u>			149,297	
Total Dues (Fully Merged)		525,253		
Adjustment for Merger Phase In		59,131 ✓		
Regular Activities of EEI		<u>584,385</u>		
	13% lobbying	75,970 ✓	508,415	584,385
Industry Issues	25% lobbying	14,610 ✓	43,828	58,438
Restoration, Operations, and Crisis Management Program	0% lobbying		4,350	4,350
2015 Contribution to the Edison Foundation	charitable contribution		14,500	14,500
		<u>661,673</u>	<u>90,580</u>	<u>556,593</u>
			14,500	661,673

Corporate Accounting
12/5/2014 10:45 AM

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w:\corpacct\ent\2015 EEI Dues Calculation Check.xls

In 2014, the total invoice to AES Corporation was \$1.077 million. The filing shows that AES removed 22% of EEI dues as legislative and charitable contributions, and then allocated 31.9% of the remaining funds to its Indiana subsidiary.⁴⁹

⁴⁸ Sierra Pacific Power Company Edison Electric Institute dues available at <https://www.documentcloud.org/documents/3235953-NV-Energy-Dues.html#document/p140/a331435>

⁴⁹ Indianapolis Power & Light Edison Electric and Indiana Energy Association Dues available at <https://www.documentcloud.org/documents/3100472-Indianapolis-Power-and-Light-Industry.html#document/p46/a318422>

INDIANAPOLIS POWER & LIGHT COMPANY
Pro Forma Adjustment to Total Electric for EEI and IEA Dues
(Thousands of Dollars)

The following adjustment reflects a pro forma net decrease in dues expense for the Edison Electric Institute (EEI) and the Indiana Energy Association (IEA).

Line No.		(Col. 1)	(Col. 2)	Line No.
1	Total 2014 EEI dues for all AES U.S. utility subsidiaries	\$ 1,077		1
2	Less: Portion attributable to legislative activities	(208)		2
3	Less: Portion attributable to charitable contribution	<u>(30)</u>		3
4	Net total EEI dues, excluding legislative and charitable portion	839		4
5	IPL's portion of 2014 EEI dues	<u>31.90%</u>		5
6	Pro forma 2014 EEI dues for IPL only		\$ 268	6
7	Pro forma IEA dues (1)		<u>-</u>	7
8	Total pro forma EEI and IEA dues		268	8
9	Total EEI and IEA dues charged to electric operating expense for the twelve months ended June 30, 2014		<u>661</u>	9
10	Pro forma adjustment (See Schedule OM1)		<u><u>\$ (393)</u></u>	10

(1) Recovery is not sought due to legislative activities.

In summary, utilities routinely recover the majority of their EEI membership dues and program payments from ratepayers, even though EEI documents demonstrate that the organization's work is inherently political. The evidence warrants a thorough and independent review of EEI's budget and expenditures to ensure that ratepayers are not funding the utility industry's political agenda.

III. Other Political Organizations Receiving Ratepayer Money

Beyond EEI, utilities are charging ratepayers for their memberships in other inherently political organizations:

- Dominion and Duke Energy attempted to have ratepayers subsidize a portion of American Legislative Exchange Council dues and political party organizations in rate requests.

- Wisconsin Public Service also included political party organizations in a rate request.
- American Electric Power subsidiaries requested that ratepayers fund the American Coalition for Clean Coal Electricity and the Emerging Issues Policy Forum.
- Florida Power & Light, FirstEnergy, Oklahoma Gas & Electric, and Wisconsin Public Service added portions of U.S. Chamber of Commerce membership fees and asked for ratepayers to foot the bill.
- Pacific Gas & Electric, Madison Gas and Electric, Southern California Edison, and Wisconsin Public Service requested ratepayers pay for all or some of their American Gas Association dues.
- Dominion, Duke Energy, and Florida Power & Light requested ratepayers pay for Nuclear Energy Institute dues.

The FPL spreadsheet in the utility's rate request revealed that it included \$63,000 to the U.S. Chamber of Commerce and an additional \$157,000 earmarked to the U.S. Chamber of Commerce's Institute of 21st Century Energy in operating expenses.⁵⁰ The Chamber, which has also received EEL money, has been a leading voice against the EPA's Clean Power Plan and greenhouse gas emission regulations, ozone and fine particle regulations, vehicle emission standards, and rooftop solar policies.⁵¹ The political powerhouse is also involved in political debates over health care, tax rates, labor policies, and immigration.

<p><i>Jun 9 2016</i></p> <p>Did You Know Your Neighbor's Solar Panels Can Increase Your Electric Bill?</p> <p>Installation of solar on residential homes is gaining in popularity. "Private solar" is the term used for those shiny solar panels that are popping up on residential rooftops.</p> <p>Many years ago, electric companies and local regulators created a way to credit these homeowners for generating electricity—called net metering.</p>		<p><i>Feb 1 2017</i></p> <p>Chamber Coalition Letter to Congress Supporting Nullification of BLM Stream Rule</p> <p>As business leaders representing diverse geographic regions and economic interests, we write to encourage your support for expedited passage of a joint Congressional Review Act (CRA) resolution vetoing the Obama Administration's so-called "Stream Protection Rule" (SPR).</p>
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The requests from Madison Gas and Electric and Wisconsin Electric Power Company also included "AGA," which is the American Gas Association, a leading voice for continued and increased use of fracking, and construction of natural gas infrastructure and power plants.

Dominion filed a rate request to the Virginia State Corporation Commission that included many political organizations, including the American Legislative Exchange Council (ALEC),

⁵⁰ Florida Power & Light Industry Association Dues available at <https://drive.google.com/file/d/0B-0ZwtRThY3LVjRjSVVPTjZ6N28/view>

⁵¹ Institute for 21st Century Energy Policy Center available at <http://www.energyxxi.org/issues>

while noting what was below-the-line.⁵² The amounts Dominion requested to be above and below-the-line defied logical explanation, because nearly all of the amounts to the Democratic Legislative Campaign Committee were listed below-the-line, while all of the money for the Republican Governors Association Board Membership was above-the-line. It's not clear why Dominion felt ratepayers should fund Republican political organizations but not Democrat organizations. Virginia Corporation Commission staff noted the incongruence and routed the ALEC and Republican party organization dues to shareholders.

<p style="text-align: center;"> VIRGINIA ELECTRIC AND POWER COMPANY CASE NO. PUE-2015-00027 FOR THE TEST YEAR ENDED DECEMBER 31, 2014 ADJUSTMENT TO REMOVE LOBBYING AND OTHER MISCELLANEOUS UNRECOVERABLE EXPENSES STAFF ADJUSTMENT NO. ET-13 SUPPORTING DOCUMENTATION </p>								
ing Date	Vendor	Total DRS Amount	Pct to VP	Bill to VP	Narrative Description	Total Bill to VP	Amounts Booked Below-the-line	Difference
6/02/2014	AMERICAN COUNCIL OF YOUNG POLITICAL	10,000	51.68%	5,168	ACYPL CORP. PTNRSHIP PROG	5,168		5,168
5/29/2014	AMERICAN LEGISLATIVE EXCHANGE	7,000	51.68%	3,618	Private Sector - Washington Club			-
8/05/2014	AMERICAN LEGISLATIVE EXCHANGE	7,500	51.68%	3,876	VA Delegation Night Sponsorship	7,494	6,987	507
5/16/2014	COUNCIL OF STATE GOVERNMENTS	3,500	51.68%	1,809	2014 Annual Meeting in MD	1,809	1,667	122
6/10/2014	DEMOCRATIC ATTORNEYS GENERAL ASSN	15,000	51.68%	7,752	2014 Leadership Circle Membership	7,752		7,752
6/05/2014	DEMOCRATIC GOVERNORS ASSN	25,000	51.68%	12,920	DGA Virginia Policy Conference Sponsor			-
5/29/2014	DEMOCRATIC LEGISLATIVE CAMPAIGN	25,000	51.68%	12,920	DLCC 2014 Leadership Council Membership	12,920	12,048	872
5/20/2014	DEMOCRATIC MUNICIPAL OFFICIALS	10,000	51.68%	5,168	2014 DMO Advisory Board Membership	5,168	4,819	349
6/19/2014	REPUBLICAN ATTORNEYS GENERAL ASSN	15,000	51.68%	7,752	2014 Attorneys General Committee	7,752		7,752
6/02/2014	REPUBLICAN GOVERNORS ASSN	50,000	51.68%	25,840	2014 RGA Governors Board Membership	25,840		25,840
5/6/2014	VA CHAMBER OF COMMERCE	65	58.76%	38	VA Chamber Board Meeting May 2014	38	6	32
	Subtotal DRS to DVP							48,394

Meanwhile, in North Carolina, Duke Energy filed requests to also include ALEC along with the Democratic Governors Association, the National Republican Club of Capitol Hill, and other political entities to be paid by ratepayers.⁵³ Consumer advocates and utility commission staff caught the effort. Duke Energy testified that this was an error and said “the filing was performed by human beings and no human being is perfect.”⁵⁴

⁵² Virginia Electric and Power Company Adjustment to Remove Lobbying available at <https://www.documentcloud.org/documents/3104630-Dominion-Dues-Appendix-B.html#document/p6/a320801>

⁵³ Application of Duke Energy Carolinas for Adjustment of Rates, NC WARN testimony available at <https://www.documentcloud.org/documents/3459599-NC-WARN-Testimony-Before-NCUC-2013.html#document/p10/a338017>

⁵⁴ Application of Duke Energy Carolinas for Adjustment of Rates, Duke Energy testimony available at <https://www.documentcloud.org/documents/3459595-Duke-Energy-Testimony-2013-Rate-Request.html#document/p83/a338018>

Table 1: Partisan Political Sponsorships and Donations

Acct.	Partisan Political Sponsorships/Donations	DEC Direct	
921200	SOUTH CAROLINA SENATE DEMOCRATIC CAUCUS		\$2,500
923000	SOUTH CAROLINA SENATE DEMOCRATIC CAUCUS		\$5,000
921200	SOUTH CAROLINA SENATE REPUBLICAN CAUCUS		\$2,500
921200	REPUBLICAN STATE LEADERSHIP COMMITTEE		\$25,000
921200	SC BUSINESS AND INDUSTRY POLITICAL		\$5,000
921200	SC HOUSE REPUBLICAN CAUCUS		\$2,500
921200	SC SPORTSMENS CAUCUS		\$1,250
921200	SOUTH CAROLINA HOUSE DEMOCRATIC CAUCUS		\$2,500
921200	SOUTH CAROLINA LEGISLATIVE BLACK CAUCUS		\$1,750
921200	PALMETTO LEADERSHIP COUNCIL *		\$2,500
921200	NORTH CAROLINA LEGISLATIVE BLACK CAUCUS		\$10,000
		Duke Donations	Allocation from Duke
921200	DEMOCRATIC GOVERNORS ASSOCIATION	\$100,000	\$55,650
921200	DEMOCRATIC GOVERNORS ASSOCIATION	\$200,000	\$112,600
921200	CONGRESSIONAL BLACK CAUCUS FOUNDATION	\$50,000	\$27,825
921200	CONGRESSIONAL HISPANIC CAUCUS INSTITUTE	\$20,000	\$11,130
921200	NATIONAL REPUBLICAN CLUB OF CAPITOL HILL	\$10,000	\$5,630
	Total DEC:		\$273,335

* Political Action Committee associated with the Republican House Speaker in South Carolina

Table 2: Lobbying and Public Policy Organizations

	Lobbying and Public Policy Organizations	DEC Direct	
921200	CAROLINA BUSINESS COALITION INC		\$100,000
921100	AMERICAN LEGISLATIVE EXCHANGE COUNCIL		\$2,500
921200	AMERICAN LEGISLATIVE EXCHANGE COUNCIL		\$5,000
921200	AMERICAN LEGISLATIVE EXCHANGE COUNCIL		\$12,500
921200	SOUTH CAROLINA MANUFACTURERS ALLIANCE		\$4,000
921200	SOUTH CAROLINA MANUFACTURERS ALLIANCE		\$3,133
921200	NORTH CAROLINA CHAMBER		\$3,000
921200	NORTH CAROLINA CHAMBER		\$10,000
921200	SC SPORTSMENS CAUCUS		\$1,250
921200	SC BUSINESS AND INDUSTRY POLITICAL		\$5,000
921200	SOUTH CAROLINA MANUFACTURERS ALLIANCE		\$2,610
923000	NATIONAL FEDERATION OF INDEPENDENT BUSINESS		\$5,000
923000	NATIONAL FEDERATION OF INDEPENDENT BUSINESS		\$5,000
		Duke Donations	Allocation from Duke
	BUSINESS INSTITUTE FOR POLITICAL ANALYSIS	\$5,000	\$2,783
	BUSINESS INSTITUTE FOR POLITICAL ANALYSIS	\$5,000	\$2,783
	Total DEC:		\$164,557

Wisconsin Public Service included several political party organizations, the U.S. Chamber of Commerce, and the American Gas Association in Account 930.⁵⁵

WPSC Response:

Government Relations (HC A15) is the name of the department/home center that forecasts the industry association dues and memberships in account 930200 listed below:

2016 Test Year	Governmental Relations (A15)/ Memberships (RT 443)
\$ 399,000	Edison Electric Institute
\$ 8,085	Association of Edison Illuminating Companies
\$ 12,360	Midwest Energy Association (electric portion)
\$ 66,900	Wisconsin Utilities Association
\$ 500	State Bar of Wisconsin
\$ 4,100	Wisconsin Paper Council
\$ 15,900	North Central Electric Association
\$ 13,000	Wisconsin Manufacturers Association
\$ 8,339	Midwest Energy Association (gas portion)
\$ 92,392	American Gas Association
\$ 12,544	Republican Governors Association
\$ 5,376	Republican State Leadership
\$ 3,584	Democratic Governors Association
\$ 1,886	US Chamber of Commerce
\$ 720	Michigan Chamber of Commerce
\$ 644,686	FERC Account 930200

⁵⁵ Wisconsin Public Service Corporation Government Relations/Memberships available at <https://www.documentcloud.org/documents/3227546-Wisconsin-Public-Service-Corporation-Dues.html>

Minnesota Power (Allete) included in its corporate dues several pro-coal entities and its UWAG membership.⁵⁶

<u>Corporate Membership Dues:</u>	<u>Actual 2015</u>	<u>Code:</u>
EDISON ELECTRIC 2015 MEMBERSHIP DUES (EEI)	263,770 C	4
WESTERN COAL TRAFFIC	55,000 C	4
CLIMATE REGISTRY	6,600 C	4
BLOOMBERG	25,039 C	4
MONTANA COAL COUNCIL	4,000 C	4
MIDWEST RURAL ENERGY COUNCIL MREC	1,500 C	4
MINNESOTA PESTICIDE INFORMATION AND EDUCATION ORGANIZ/	1,000 C	4
MINNESOTA LOGGER EDUCATION PROGRAM	1,000 C	4
CEATI INTERNATIONAL INC - Utility Operations and Planning	27,300 C	4
CENTER FOR ENERGY WORKFORCE DEVELOPMENT	3,500 C	4
MINNESOTA ENVIRONMENTAL INITIATIVE	8,000 C	4
UWAG Membership Dues	17,668 C	4
MINING MINNESOTA	15,000 C	4
MINNESOTA FOREST INDUSTRIES	13,669 C	4
MINNESOTA HIGH TECH ASSOCIATION	10,000 C	4
MINNESOTA TIMBER PRODUCER ASSOCIATION	250 C	4
NORTH AMERICAN ENERGY MARKETS ASSOCIATION (NAEMA)	3,000 C	4
CORNET GOBAL MIDWEST	800 C	4
NATIONAL ASSOCIATION OF MANUFACTURERS	1,000 C	4
AMERICAN WOOD PROTECTION ASSOCIATION	250 C	4
NATIONAL COAL TRANSPORTATION ASSOCIATION	625 C	4

A request filed by Appalachian Power Company and Wheeling Power Company (American Electric Power companies) reveals money going to many organizations working to increase the use of coal and prevent EPA regulations, but also the wind energy trade association.⁵⁷

AMERICAN COAL ASH ASSOCIATION	3,971	EDISON ELECTRIC INSTITUTE	6,334
AMERICAN COAL COUNCIL	667	EMERGING ISSUES POLICY FORUM	4,020
AMERICAN COALITION FOR CLEAN	177,476		
AMERICAN INDUSTRIAL HYGIENE ASSOC	175		
AMERICAN WIND ENERGY ASSOC	5,965	EASTERN COAL COUNCIL	4,500
ARIZONA STATE UNIVERSITY	9,672	EDISON ELECTRIC INSTITUTE	345,465
ASSOCIATION OF EDISON	4,239		
ASSOCIATION OF ENERGY SERVICES	940		
BETTER INVESTING	2,222	NATIONAL ASSOCIATION FOR ENVIRONMENTAL	2,654
BLOOMBERG BNA	1,149	NATIONAL ASSOCIATION OF MANUFACTURERS	35,601
BOARD OF ENVIRONMENTAL	37	NATIONAL COAL COUNCIL	3,451
BUSINESS COUNCIL	533	NATIONAL COAL TRANSPORTATION ASSOCIATION	400
BUSINESS GOVERNMENT RELATIONS COUNCIL	490	NATIONAL INVESTOR RELATIONS INSTITUTE	352
BUSINESS ROUNDTABLE	14,560	NATIONAL MINING ASSOCIATION	6,505

⁵⁶ Minnesota Power Organization Dues available at <https://www.documentcloud.org/documents/3224119-Minnesota-Power-Allete-Organization-Dues.html#document/p518/a329515>

⁵⁷ Appalachian Power Company and Wheeling Power Company response to discovery re questions available at <https://www.documentcloud.org/documents/3224308-Appalachian-Power-AEP-Membership-Dues.html>

While the amounts highlighted in this report pale in comparison to the ratepayer money that utilities seek to build infrastructure, customers are nevertheless funding political activities which which they may not agree, and from which they do not benefit.

III. Utility Pushback Against Oversight of Their EEI Dues

Regulatory oversight of requests by utilities to recover EEI dues from ratepayers has lapsed in many states. For example, longstanding Florida Public Service Commission precedent requires utilities to provide “adequate segregation” of EEI dues, or commissioners would disallow the utility from recovering one-third of those dues as lobbying.⁵⁸ However, FPL reported in 2016 more than \$9.5 million in EEI dues for 2015-2018 as part of its latest rate request before the Florida PSC. The utility’s request to include its EEI dues went unchallenged despite a lack of transparency or segregation, and its request was approved.

Many utility companies simply include an annual EEI invoice that footnotes the percentage EEI deems to be lobbying in the rate request as justification for the amounts charged to ratepayers and shareholders. That lobbying percentage has often been enough for a commission staff and commissioners. In fact, several of the utilities that EPI reviewed, including Dominion, El Paso Electric, Monongahela Power Company and the Potomac Edison Company, NV Energy, and NIPSCO, either submitted the EEI invoice as evidence or noted an amount based on percentages that EEI deemed lobbying in Account 426.4.

However, public utility commissions in a number of states have required utilities to provide evidence that any EEI payments benefit ratepayers. If the utility fails to do so, then commissioners have disallowed all of EEI dues from general operating expenses. In other cases, a utility must demonstrate that it has not only disallowed expenditures for lobbying but also all types political activities such as regulatory or legislative activities - and an EEI invoice is insufficient. Decision makers have disallowed nearly 50% of EEI dues based on detailed budget information that had previously been published for decades under guidance provided by the National Association of Regulatory Utility Commissioners (NARUC). But when regulatory staff have questioned EEI dues, utilities have been quick to respond and push back against staff testimony or discovery requests with rebuttals that show EEI invoices and/or prior precedents to allow for the recovery of EEI dues.

⁵⁸ Energy and Policy Institute, “The Real Cost Shift: Utilities Force Customers to Subsidize Attacks on Rooftop Solar” available at <http://www.energyandpolicy.org/real-solar-cost-shift-subsidized-attacks-on-rooftop-solar/>

EEl membership “appears to primarily benefit the Company”

In 2015, Missouri Public Service Commission utility regulatory auditors presented testimony to support the staff’s proposal to disallow the entire amount of EEl dues in the rate request of Union Electric Company (Ameren).⁵⁹ While staff said that the ratepayers may receive some benefit from Ameren Missouri’s membership in EEl, they noted that “the membership appears to primarily benefit the Company and its shareholders.” The Minnesota Office of Attorney General similarly recommended that ratepayers not pay for EEl dues using the same reasoning: dues should not be recovered because EEl is primarily a lobbying organization.⁶⁰

Missouri PSC staff cited a previous rate case, No.ER-82-66, that ordered all of Kansas City Power and Light’s EEl dues in Missouri to be disallowed because the utility has not quantified the benefit to ratepayers.⁶¹ Staff also cited Arkansas Power and Light Case, No.ER-85-265, in which the PSC “reaffirms its previously stated position that a utility company must properly assign EEl dues based upon the respective benefit to the ratepayers and the shareholders.”⁶² Staff further cited Union Electric Company Case No. EC-87-114, in which the commission stated that it has consistently excluded EEl dues from the cost of service “on the ground that these payments have not been shown to produce any direct benefit to the ratepayers.”⁶³

Ameren, despite established state precedent, still requested its ratepayers shoulder EEl contributions of \$483,138 along with \$235,455 to UARG, \$96,010 to UWAG, and \$47,163 to USWAG.⁶⁴ After negotiations between staff, Ameren, and several signatories, a settlement was reached to allow the utility to recover \$11 million for various revenue issues, including

⁵⁹ Surrebuttal Testimony in Union Electric Company d/b/a Ameren Missouri case available at <https://www.documentcloud.org/documents/3320628-MO-PSC-Surrebuttal-Testimony-Dues.html>

⁶⁰ Minnesota Public Utilities Commission Staff Briefing Papers, Otter Tail Power Company GR-15-1033 available at <https://www.documentcloud.org/documents/3675289-Otter-Tail-Power-MN-PUC-Staff-Briefing-Papers.html#document/p71/a351343>

⁶¹ Report and Order in Kansas City Power & Light Company case available at <https://www.documentcloud.org/documents/3461052-Missouri-PSC-ER8266-EEl-Dues.html#document/p26/a338197>; Surrebutal Testimony in Union Electric Company case available at <https://www.documentcloud.org/documents/3320628-MO-PSC-Surrebuttal-Testimony-Dues.html#document/p4/a334933>

⁶² Surrebuttal Testimony in Arkansas Power and Light case available at <https://www.documentcloud.org/documents/3320628-MO-PSC-Surrebuttal-Testimony-Dues.html#document/p5/a334932>

⁶³ Report and Order in Union Electric Company case available at <https://www.documentcloud.org/documents/3461051-Missouri-PSC-EC87114-EEl-Dues.html#document/p33/a338198>; Surrebuttal Testimony in Union Electric Company case available at <https://www.documentcloud.org/documents/3320628-MO-PSC-Surrebuttal-Testimony-Dues.html#document/p5/a334931>

⁶⁴ Ameren Position of Statement of Dues, Including EEl and Environmental Working Groups Dues available at <https://www.documentcloud.org/documents/3461233-MO-PSC-Statement-of-Positions-EEl-Dues.html#document/p3/a338293>

EEL dues.⁶⁵ It is unclear from the settlement order what amount Ameren was allowed to charge its ratepayers.

In the Kansas City Power and Light Greater Missouri Operations Company rate request filed in December 2015, commission staff once again recommended that all EEL dues be disallowed. The utility said that it recorded approximately 21% of its dues to EEL below the line based on the invoice it received from the trade association.⁶⁶ However, commission staff, in a filing of limited issues, continued to recommend that the commissioners not force ratepayers to pay for EEL dues simply because the utility's membership "does not benefit ratepayers."⁶⁷ The rate case was settled and the issue of EEL dues was not mentioned.

"EEL ceased its earlier practice of issuing detailed information on its budget"

William Marcus, on behalf of the Office of Attorney General, testified in Oklahoma Gas & Electric's rate request before the Arkansas PSC in 2009.⁶⁸ Marcus said that OG&E has used the itemized invoice that EEL submitted to the utility to note that it is not seeking recovery for the 20% of Regular Activities and 40% of the fee for industry structure, which are all based on percentages footnoted on the invoice. However, Marcus recommended that the PSC disallow a total of 49.93% of the Regular Activities dues for ratemaking purposes as it did in the Entergy case, docket 06-101-U. Marcus cited the table below to justify its recommendation. The 49.93% is a result of adding Legislative Advocacy (20.38%), Regulatory Advocacy (16.49%), Advertising (1.67%), Marketing (3.68%), and Public Relations (7.71%). Marcus did not advocate for it, but commissioners could go further and disallow both Legislative Policy Research (6.02%) and Regulatory Policy Research (13.99%), since those categories support EEL's advocacy. The table comes from the last available audited data of EEL spending by NARUC categories, in 2005.

⁶⁵ Nonunanimous stipulation and agreement regarding certain revenue and requirement issues available at <https://www.documentcloud.org/documents/3519637-Settlement-Between-Ameren-and-PSC-Staff.html>

⁶⁶ KCP&L Greater Missouri Operations Testimony available at <https://www.documentcloud.org/documents/3320624-KCPL-Rebuttal-Testimony-2016-Dues.html#document/p25/a334971>

⁶⁷ Missouri Public Service Commission Staff Positions on Listed Issues available at available at <https://www.documentcloud.org/documents/3324311-MO-PSC-Rebuttal-to-KCPL.html#document/p8/a334973>

⁶⁸ Application of Oklahoma Gas and Electric Corporation, Arkansas Attorney General testimony available at <https://www.documentcloud.org/documents/3239426-Arkansas-AG-Office-2009-OGE-Rate-Request.html#document/p64/a332104>

Table 11: EEI Spending

Edison Electric Institute Schedule of Expenses by NARUC Category For Core Dues Activities For the Year Ended December 31, 2005

<u>NARUC Operating Expense Category</u>	<u>% of Dues</u>
Legislative Advocacy	20.38%
Legislative Policy Research	6.02%
Regulatory Advocacy	16.49%
Regulatory Policy Research	13.99%
Advertising	1.67%
Marketing	3.68%
Utility Operations and Engineering	11.31%
Finance, Legal, Planning and Customer Service	18.75%
Public Relations	7.71%
Total Expenses	<u>100.00%</u>

In Entergy Texas Inc.'s (ETI's) rate case, the utility filed a motion to strike parts of testimony given by Marcus that specifically dealt with the NARUC audit and EEI dues. Sheri Givens, then-attorney for the Texas Office of Public Utility Counsel, filed a defense of Marcus' testimony. Givens stated (emphasis added):

ETI over-reaches in its claim and its Motion should be denied. **First, it is not speculation that EEI ceased its earlier practice of issuing detailed information on its budget that have previously been published. This fact is stated on lines 12 through 15 (EEI has decided on its own to stop issuing detailed information on its budget that had previously been published for decades under the auspices of NARUC)** ... These are factual statements backed up by the response of the Kentucky Utilities Company to a discovery request by the Kentucky Public Service Commission

... Kentucky Utilities expressly states, “Beginning in 2007, EEI is no longer preparing the breakout of activities by NARUC category as provided in the last rate case.” ETI itself provided a letter from EEI that shows that of the former “breakout categories,” only legislative advocacy is broken out and that is because it is required by the IRS because lobbying activities are not tax deductible for its members.⁶⁹

In other words, Givens stated that because of the fact that EEI no longer provides its member companies breakouts of spending as defined by NARUC, instead providing only its lobbying percentages, it is acceptable for commissioners to use the latest audit by NARUC to understand EEI spending with greater precision.

“EEI spends money on many other things that do not fit the narrow definition of lobbying”

In California, Marcus, on behalf of The Utility Reform Network (TURN) proposed allocating 43.3% of EEI dues below the line rather than the 25% proposed by Pacific Gas & Electric (PG&E) for the utility’s 2014 general rate case. In testimony, Marcus stated what this report argues, which is that “EEI spends money on many other things that do not fit the narrow definition of lobbying. The Commission has in the past specifically rejected all EEI spending for lobbying, legislative advocacy, regulatory advocacy, marketing, public relations, advertising, donations, and club dues.”⁷⁰ TURN cited D. 96-01-011 as precedent.

The testimony further explained that “after a series of regulatory disallowances of significant parts of EEI dues across the country, EEI has decided on its own to stop issuing detailed information on its budget that had previously been published for decades under the auspices of NARUC.” TURN then presented the 2005 audited schedule of expenses defined by NARUC (page 33 of this report) and another table that shows unaudited EEI expense categories for 2005 to 2009 obtained from a prior rate case in Arkansas.⁷¹

⁶⁹ Application of Entergy Texas Inc., Office of Public Utility Counsel response available at <https://www.documentcloud.org/documents/3288545-Texas-PUC-Response-to-Entergy-Texas.html#document/p11/a334904>

⁷⁰ Electric Generation and Other Results of Operations Issues for Pacific Gas and Electric Company, The Utility Reform Network William Marcus testimony available at <https://www.documentcloud.org/documents/3382426-TURN-PGE-Testimony-2014-Rate-Request.html#document/p72/a335205>

⁷¹ Ibid.

Table 32: EEI Spending Data 2005-2009 Arkansas PSC Staff DR 52-03 in Docket No. 10-067-U

**Edison Electric Institute Schedule of Expenses
For Core Dues Activities**

For the years Ended December 31, 2005 - 2009

(Unaudited)

% of Dues

Operating Expense Category	2005	2006	2007	2008	2009
Legislative Advocacy and Policy Research	26.4%	25.7%	16.2%	14.4%	21.9%
Public Relations	7.7%	8.8%	2.2%	2.0%	2.4%
Advertising	1.7%	1.3%	0.9%	2.3%	2.3%
Marketing	3.7%	3.9%	0.0%	0.0%	0.0%

The 43% that TURN proposes is a result of adding - at the time - the latest available information of Legislative Advocacy and Policy Research (21.9%), Public Relations (2.4%), Advertising (2.3%), and the spending on Regulatory Advocacy (16.5%) from the 2005 audited table.

The Commission agreed with TURN; thus preventing utility ratepayers from paying \$300,000 of EEI dues.⁷²

Southern California Edison “has not shown it has removed all political or lobbying costs”

TURN went a step further and proposed that EEI dues be completely disallowed from Southern California Edison’s (SCE’s) 2015 general rate case.⁷³ According to the proposed decision of Administrative Law Judge Kevin Dudney, SCE proposed to charge ratepayers for \$1.463 million for EEI dues (the total EEI invoice to SCE was \$1.922 million).⁷⁴ TURN contended that the money paid to EEI, in Account 930, was political. TURN stated, “SCE has

⁷² Proposed Decision before the Public Utilities Commission of the State of California, Pacific Gas and Electric Company application available at <https://www.documentcloud.org/documents/3239245-COMPENSATION-to-TURN-for-SUBSTANTIAL.html#document/p8/a331970>

⁷³ Southern California Edison 2015 General Rate Case Rebuttal Testimony available at <https://www.documentcloud.org/documents/3239584-Southern-California-Edison-2015-rebuttal.html#document/p25/a335207>

⁷⁴ Proposed Decision Public Utilities Commission of the State of California, Southern California Edison application available at <https://www.documentcloud.org/documents/2998283-Southern-California-Edison-revenues-for-2015.html#document/p376/a331987>

not removed all of the NARUC categories that the Commission previously identified as inappropriate for ratepayer funding because of their inherently political nature.”

TURN further claimed that EEI,

waged an aggressive campaign in Arizona against net energy metering for distributed solar photovoltaic energy (solar PV), and SCE has not demonstrated that EEI dues to be recovered from California ratepayers excluded these or similar activities ... TURN argues that if SCE is willing to fund EEI’s efforts to fend off distributed PV through intervention in out-of-state utility regulatory proceedings and television advertising (including prime spots like during NFL games), then SCE’s shareholders alone should fund those activities.

SCE called TURN’s recommended disallowance “baseless and unreasonable.” It recommended that the commissioners allow SCE’s forecast for EEI membership dues of \$1.462 million.⁷⁵ SCE also stated in its rebuttal testimony that it asked EEI to review TURN’s testimony. EEI provided the following:

TURN claims that “the world changed dramatically in 2013” as “EEI embarked upon a political advertising campaign” to “fight solar.” Further TURN claims that EEI utilized “massive television advertising,” spending “huge, undisclosed sums of money...” and “blanketing the airwaves.” This is clearly not true. While EEI did run an ad on TV in Arizona, it was only limited markets for a limited period of time. In face [sic], the ... data shows that the percentage of dues used for Lobbying, Public and Media Relations, Advertising, and Marketing was 20.5 percent in 2013, less than the 21.2 percent in 2012.

While NARUC no longer requires EEI to provide detailed information, EEI has continued to use the NARUC definitions to compute the percentage of member dues used for Lobbying, Public and Media Relations, Advertising, and Marketing. These percentages are compiled through a careful accounting of the time spent by EEI lobbyists and staff as well as expenditures on programs, consultants, and other expenses.

Despite SCE’s rebuttal plus the fact that EEI involved itself in the rate case to defend and explain its spending - **while admitting it no longer provides detailed information to NARUC** - Judge Dudney agreed with TURN. Judge Dudney stated that “SCE has not shown it has removed all political or lobbying costs from its forecast.” However, Judge Dudney declined to disallow all of SCE’s EEI dues outright, but adopted TURN’s methodology from

⁷⁵ Southern California Edison 2015 Genera Rate Case Rebuttal Testimony available at <https://www.documentcloud.org/documents/3239584-Southern-California-Edison-2015-rebuttal.html#document/p25/a332133>

the PG&E 2014 general rate case and reduced SCE's forecast of EEI dues to \$1 million from the total \$1.922, a disallowance of 47.9%.⁷⁶

"EEI no longer publishes this information on a routine basis, having stopped NARUC audits in the vicinity of 2006"

In September 2015, Marcus testified again on behalf of the Arkansas Office of Attorney General during Entergy Arkansas Inc.'s (EAI's) rate request. EAI requested that ratepayers pay \$293,398, or 81.5%, of EEI dues after adjusting out \$66,362. Marcus recommended increasing the disallowance to \$145,294 - a 40% charge to shareholders. Marcus justified this recommendation by stating that there has been a framework established for commissions to disallow EEI's political expenses aside from lobbying and specifically cited SCE's 2015 general rate case. Marcus proposed to use the 2012 information that revealed EEI spent 21% of its budget on lobbying, public and media relations, advertising, and marketing. Marcus then added 6% for legislative policy research, 16% that was regulatory advocacy, and rounded down "for conservatism."⁷⁷

He also stated that despite the information he has been able to compile, very little is known about EEI expenses, though not for lack of trying:

EEI no longer publishes this information on a routine basis, having stopped NARUC audits in the vicinity of 2006.⁷⁸ EEI hands out information that it feels like giving utilities when they ask for it, but never provides complete information in the same format that it used to provide.

This fact was brought up by the Arizona Residential Utility Consumer Office (RUCO) during Arizona Public Service's rate case. In December 2016, RUCO proposed a 49.93% disallowance of EEI dues determined by the 2005 NARUC operating expense breakdown table. The consumer advocate office said that this figure cannot be updated because EEI stopped providing this information after 2006. "RUCO believes after a series of regulatory

⁷⁶ Proposed Decision Public Utilities Commission of the State of California, Southern California Edison application available at <https://www.documentcloud.org/documents/2998283-Southern-California-Edison-revenues-for-2015.html#document/p378/a310066>

⁷⁷ Entergy Arkansas, Inc. Rate Request, Arkansas Attorney General William Marcus testimony available at <https://www.documentcloud.org/documents/3239429-Arkansas-AG-Office-2015-Entergy-Rate-Request.html#document/p32/a335208>

⁷⁸ Footnote used by Marcus: Response to Initial Requests for Information (Question 65) of the Kentucky Attorney General (August 27, 2008) from Kentucky Public Service Commission Case No. 2008-00251 and 2007-00565 for Kentucky Utilities Company, found at [http://psc.ky.gov/pscscf/2008%20cases/2008-00251/KU_Response%20to%20AG's%20Requests%20dated%20082708%20\(Vol%201of3\)_091108.pdf](http://psc.ky.gov/pscscf/2008%20cases/2008-00251/KU_Response%20to%20AG's%20Requests%20dated%20082708%20(Vol%201of3)_091108.pdf)

partial disallowances of EEI dues by Commissions across the nation, EEI decided not to provide this information to NARUC, which it had previously done for at least a decade.”⁷⁹

RUCO proposed that of the \$1,188,411 charged to APS for EEI dues, shareholders should pay for \$593,373, 49.93%, of that amount instead of \$211,748, 20%, as proposed by the utility. This left \$946,663 to be paid for by APS ratepayers to help fund EEI, including UARG and USWAG - RUCO noted. The consumer advocacy group further noted, “These groups represent the interest of electric generations such as APS, TEP and UNS donations and membership is purely voluntary, many of which are political in nature, and may not be necessary for the provision of utility services.”⁸⁰

“Staff removed amounts associated with industry dues that appear to be political or lobbying in nature”

In Virginia, in 2015, the Associated Press revealed that Dominion was charging ratepayers for charitable contributions, including for payments to overtly political groups like the Virginia Chamber of Commerce that have supported the utility’s agenda in the state legislature.⁸¹ Then-Attorney General Ken Cuccinelli said, “Why should captive ratepayers, who have no option to get electricity from another company, be compelled to fund the charitable choices of a company? Leave the ratepayers their money, and let them make their own charitable choices.”⁸²

Dominion initially said it was following established State Corporation Commission precedent, and eventually agreed to end the practice and use shareholder money for all of its charitable giving, but pushed back against the proposal to remove EEI dues.⁸³ Indeed, a Virginia Corporation Commission public utility accountant proposed to remove more EEI dues than Dominion had originally allocated in their cost of service. In pre-filed testimony, staff said that the dues removed “appear to be political or lobbying in nature.” Yet, Dominion disagreed and

⁷⁹ Direct Testimony of Frank Radigan, RUCO, Docket No. E-01345A-16-0036 available at <https://www.documentcloud.org/documents/3625848-RUCO-Filing-APS-EEI-Dues.html>

⁸⁰ Ibid.

⁸¹ Associated Press, “Dominion Power’s donations partially subsidized by its customers” available at <http://wavy.com/2015/08/22/dominion-powers-donations-partially-subsidized-by-its-customers/>

⁸² Associated Press, “Dominion won’t include charity donations in customers’ bill” available at http://www.richmond.com/business/article_b08eb8da-2b65-5b52-88af-f1d52032c2c9.html

⁸³ Pre-filed Staff Testimony in Virginia Electric and Power Company case, Adjustment to Remove Lobbying Expenses from Industry Dues available at <https://www.documentcloud.org/documents/3461043-EEI-and-Dominion-Rate-Case-Documents.html#document/p16/a338180>

cited EEI invoices to note that it had charged the correct amounts to the FERC codes.⁸⁴ Staff, in rebuttal testimony, still disagreed with Dominion over EEI charges to ratepayers.⁸⁵

Dominion charged to shareholders the dues to other organizations that “appear political in nature,” including the American Legislative Exchange Council, and all of the Republican and Democratic party organizations even after staff objected.⁸⁶

IV. Waning Regulatory Oversight of Ratepayers Paying for Political Membership Dues

In 1984, according to the *New York Times*, the National Association of Regulatory Utility Commissioners (NARUC) conducted a 20-month investigation into EEI’s misuse of money collected from ratepayers of the nation’s electric utilities for lobbying and public relations.⁸⁷ At the time, EEI’s budget was about \$30 million.

"It's a small amount of money in the context of utility rates, but it's a large amount in a political context," said Peter A. Bradford, chairman of the Maine Public Utilities Commission, at the time. "It can support a national media or lobbying campaign that can have a substantial impact on public consciousness or policies."⁸⁸

The article revealed that during the time of NARUC’s investigation, at least a dozen states (it noted Texas, California, Colorado, Florida, Massachusetts, and Missouri) started to disallow part or all of dues and advertising money paid to EEI from ratepayers’ bills.

In 1985, the *Washington Post* reported that NARUC’s director of financial analysis had been conducting on-site investigation of EEI’s books on behalf of NARUC. Michael Foley, the director, said, “It is clear to us, based on a rather probing analysis of their expenditures, that the principal thrust of the Edison Electric Institute's activities is that of attempting to influence

⁸⁴ Rebuttal Testimony in Virginia Electric and Power Company case, Industry and Professional Dues available at <https://www.documentcloud.org/documents/3461043-EEI-and-Dominion-Rate-Case-Documents.html#document/p128/a338184>

⁸⁵ Supplemental Testimony in Virginia Electric and Power Company case available at <https://www.documentcloud.org/documents/3461043-EEI-and-Dominion-Rate-Case-Documents.html#document/p216/a338187>

⁸⁶ Virginia Electric and Power Company Reclass Certain Industry Dues to Other Income/Expenses available at <https://www.documentcloud.org/documents/3461043-EEI-and-Dominion-Rate-Case-Documents.html#document/p256/a338192>

⁸⁷ New York Times, “Utility Group Criticized on Funds for Lobbying” available at <http://www.nytimes.com/1984/07/21/business/utility-group-criticized-on-funds-for-lobbying.html>

⁸⁸ Ibid.

the affairs of the federal government ... The majority of the dues received from utilities are directed toward that goal."⁸⁹

The NARUC investigation was not just focused on EEI, but also groups EEI funds, specifically that Utility Air Regulatory Group (UARG) and the Utility Solid Waste Activity Group (USWAG).⁹⁰

Ultimately, the initial investigation into EEI's lobbying figures led to NARUC concluding that an audit of financial records must be made and that there must be definitions that categorizes EEI's budget - those are the categories that William Marcus has presented in testimony (page 33 of this report).

A few years after the investigation, NARUC formed a "Committee on Utility Association Oversight" to provide rigorous oversight of any annual EEI dues to be paid by utility ratepayers; the National Association of State Utility Consumer Advocates (NASUCA) endorsed that approach via a resolution passed in 1988.⁹¹ The NASUCA resolution warned that "attempts are being made to dilute the effectiveness of the committee's efforts..."⁹²

In addition to providing oversight, NARUC's Committee on Utility Association Oversight was also charged with developing appropriate audit definitions and audit procedures for EEI, AGA, the Committee for Energy Awareness (now the U.S. Council for Energy Awareness) and the United States Telephone Association.⁹³

NARUC officially disbanded the committee in 2000, but suggested that "random" reviews of industry associations by the group's Staff Subcommittee on Accounts would continue under the purview of the Committee on Finance and Technology.⁹⁴ It is unclear if any such "random" reviews have occurred since, although William Marcus has been able to present EEI's budget categorized using NARUC codes as late as 2005.

⁸⁹ Washington Post, "Ratepayers Said to Fuel Utility Lobby" available at https://www.washingtonpost.com/archive/business/1985/11/18/ratepayers-said-to-fuel-utility-lobby/92d0aa17-9cd0-426e-810e-265d303321ee/?utm_term=.4996c08bbf86

⁹⁰ Ibid.

⁹¹ National Association of State Utility Consumer Advocates Resolution available at <https://www.documentcloud.org/documents/3213696-National-Association-of-State-Utility-Consumer.html#document/p15/a327118>

⁹² Ibid.

⁹³ Ibid.

⁹⁴ NARUC Resolution available at <http://pubs.naruc.org/pub/53A13CA7-2354-D714-513A-A44A35A37CAE>; Entergy Arkansas, Inc. approval of changes in rates, Entergy Arkansas sur-surrebuttal testimony available at <https://www.documentcloud.org/documents/3519952-Entergy-Arkansas-Sur-Surrebuttal-Testimony-NARUC.html>

Regulators must now rely solely on information provided by utilities and industry associations that have an obvious self-interest in maximizing the amount of their dues that will be paid by utility ratepayers.

Recommendations

The evidence in this report reveals that EEI is primarily and inherently a political organization, and that much of its work targets policymakers throughout all levels of government to build influence, specifically for their member companies but also for the industry at large. While many states have their established practices of how to code trade association dues, they should revisit outdated guidelines due to the nature of EEI's modern activities to ensure that they are adequately protecting ratepayers. Throughout the past three decades, some regulators and consumer advocates have acted to protect ratepayers, but scrutiny has waned dramatically. Precedent exists for public officials to act in every state to investigate whether or not EEI's inherently political work ought to be funded by ratepayers.

EPI recommends that:

1. Public utility commissioners and their staff should place the burden of proof on utilities to demonstrate the exact percentage of customer money provided to industry groups and other political organizations, including EEI, that actually benefits their ratepayers. This is not a recommendation for commissioners to indiscriminately disallow all EEI dues, as certain EEI programs such as storm response coordination may indeed be apolitical and provide a benefit to ratepayers. However, utilities should have to disclose the exact benefits that their political industry associations confer to ratepayers for each of their activities in detail; it is insufficient for utilities to file an annual invoice from an organization that notes the lobbying percentage, defined narrowly for tax purposes, as the only guidance for commissions to determine what should be charged to ratepayers.
2. Consumer advocates and other parties whose mission is to protect ratepayers, such as attorneys general, should file for discovery in order to receive additional documents to have a better understanding how a utility company works with EEI, and whether that work benefits ratepayers.
3. The National Association of Regulatory Utility Commissioners (NARUC) should revive the Committee on Utility Association Oversight and audit the books of EEI, NEI, and AGA to determine the percentage of their operations which are political in nature and therefore ought not to be funded by ratepayers.

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4. NARUC should compile an extensive survey that shows the percentages of dues utility ratepayers are paying to industry organizations and political party focused groups; particularly (though not limited to) EEI; American Gas Association (AGA); Nuclear Energy Institute (NEI); U.S. Chamber of Commerce; Democratic Governors Association; and Republican Governors Association. Such a manual could help utility accounting staff across the country manage the challenges associated with determining industry association dues during rate requests. This report reveals only several instances and is not exhaustive.

Appendix I: Tables of Selected Utilities' Requests for Ratepayer Money to Fund EEI Dues, and Challenges to Requests

An initial, non-comprehensive review by the Energy and Policy Institute using state public utility commission docket systems identified millions of dollars in annual utility payments to EEI that utility ratepayers are funding. The table below provides a sample of EEI payments that utilities have proposed to recover from ratepayers.

Utility	Amount requested to be paid to EEI above-the-line	Docket	Utility	Amount requested to be paid to EEI above-the-line	Docket
Centerpoint Energy (TX)	\$606,847	Schedule B.6	Monongahela Power (WV)	\$125,362	14-0702-E-42T, J-5 of Eighth RFI, CAD J-3 CAD E-36
Dominion (VA)	\$1,162,690.66	PUE-2015-00027	Northern Indiana Public Service Company (IN)	\$181,112	MSFR-15-8(a)(23)
Duke Energy (NC)	\$1,351,218	E-7, Sub 1026	NV Energy (NV)	\$556,593	Docket 16-06XXX; Data Request 94E Attach 03
El Paso Electric (TX)	\$240,363	SOAH 473-15-5257; PUC 44941, Schedule-4.3a, Staff 10-9 Attachment 1	Oklahoma Gas & Electric (OK)	\$670,609	201500273
Florida Power & Light (FL)	\$2,290,051	160021	Pennsylvania Electric Company	\$132,000	R-2016-2537352; Vol1 RAD-26
Georgia Power (GA)	\$698,521	Document Filing # 149710 Docket: 36989	Potomac Edison (WV)	\$82,447	14-0702-E-42T, J-5 of Eighth RFI, CAD J-3 CAD E-36
Indianapolis Power & Light (IN)	\$268,000	44576, OM14	Wisconsin Electric Power Company (WI)	\$728,712	Docket 05-UR-107
Kentucky Utilities Company (KY)	\$366,645.57	2016-00370, Q 52b	Wisconsin Public Service Corporation (WI)	\$399,000	6690-UR-124; 12-MK
Minnesota Power (MN)	\$263,770	E015/GR-16-664; Schedule G-3	Union Electric Company (MO)	\$483,000	ER-2014-0258

The second table highlights proposals and decisions where advocates or commissions proposed that all or a significant amount of EEI dues be disallowed from being paid by utility ratepayers.

Utility	Total amount requested to be paid to EEI	Amount requested below-the-line	Percentage requested below-the-line	Staff/Intervenors request for percentage disallowed	Commission decision of percentage disallowed	Docket
Arizona Public Service (AZ)	\$1,188,411	\$211,748	20%	49.93%	Settlement agreement	E.01345A-16-0036
Entergy (AR)	\$359,761	\$66,362	18%	40%	Settlement agreement	15-015-U
Kansas City Power & Light GMO (MO)	Unclear from filings	Unclear from filings	21%	100%	Settlement agreement	ER-2016-0156
Kansas City Power & Light (MO)	\$107,100	\$2,100	2%	100%	100%	ER-82-66
Pacific Gas & Electric (CA)	\$1,620,720	\$405,180	25%	43.3%	43.3%	12-11-009
Southern California Edison (CA)	\$1,922,000	\$459,000	24%	100%	47.9%	13-11-003
Union Electric Company (MO)	\$336,000	\$56,000	20%	100%	100%	EC-87-114

Appendix II: Sample Discovery Questions

While the decisions ultimately lie in the hands of commissioners, staff and intervenors generally have the ability to compel utilities to disclose or document further details about their EEI dues.

Below are sample questions regarding cost recovery of utility dues to EEI or other trade associations:

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- Provide a copy of the Annual Report of EEI and every other organization of which the Company was a dues-paying member during the years in question.
 - What amount of EEI dues is the Company asking to be recovered from customers, and are the company's shareholders paying for any of these dues?
 - Provide a copy of the formula used to compute, and the actual calculation of the Company's EEI dues for the years in question. Also, provide a complete copy of invoices received from EEI for dues for these years.
 - Provide any documents in the Company's possession that show how EEI spends the dues it collects, including the percentage that goes to the following categories previously provided by NARUC: legislative advocacy; legislative policy research; regulatory advocacy; regulatory policy research; advertising; marketing; utility operations and engineering; finance, legal, planning and customer service, and public relations.
 - Provide a detailed description of the services provided by EEI to the Company during the years in question. Of these services or benefits, please provide what benefits accrue to ratepayers, and how.
 - Provide copies of all work product which EEI provided to the Company during the years in question, including (but not limited to): presentations, webinar recordings, briefing books, meeting minutes, policy memos, white papers, etc.
 - Has the Company included in operating expenses any amount for EEI Media Communications? If so, state the amount, indicate in which account this has been recorded, and provide a citation to any and all Commission Orders or other authority upon which the Company is relying for the inclusion of such expense in the test period. If not, can the Company provide an estimate of how much of its dues is being spent on media or public relations work?
 - Regarding the EEI invoice provided by the Company declaring that [a specific percentage] of EEI's dues are "relating to influencing legislation", please say whether the Company knows if the following expenditures made by EEI are classified as "relating to legislation": [relevant assuming this invoice has been provided.]
 - A ten-day, \$520,000 television advertising campaign in Arizona backing Arizona Public Service's position on net metering in 2013.
 - Payments to the law firm Hunton & Williams or Edison Electric Institute related to the Utility Air Regulatory Group.
 - Payments for the Utility Solid Waste and Activities Group
 - Expenditures on "We Stand For Energy," or "Defend My Dividend," public relations and advocacy efforts.
 - Contributions from EEI to third-party organizations and contractors including (though not limited to):
 - Democratic Governors Association

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- Democratic Attorneys General Association
 - Democratic Leadership Council
 - Democratic Legislative Campaign Committee
 - Republican Governors Association
 - Republican Attorneys General Association
 - Republican State Leadership Committee
 - National Conference of State Legislators
 - American Legislative Exchange Council
 - National Black Chamber of Commerce
 - Americans For Prosperity
 - State Policy Network
 - U.S. Chamber of Commerce
 - Congressional Black Chamber of Commerce
 - NetCommunications
- How much has EEI paid, during the years in question, for its effort to “rebrand” the utility industry. Please include payments to external PR firms as well as the associated salary to any EEI staff involved in contracting, coordinating with, or promulgating internally or externally the rebranding campaign effort?⁹⁵
 - Does the Company’s dues to EEI contribute to the salary, benefits and expenses of EEI Executive Vice President for Public Policy and External Affairs Brian Wolff, who has led an effort undertaken by EEI to rebrand the utility industry?⁹⁶
 - List all travel and entertainment expenses incurred in the test period by Company employees in relation to EEI and other industry association activities. Show accounts, amounts, descriptions, person, job title and reason for the expense. Provide a copy of employee time and expense reports and invoices documenting such expenses.
 - Is the Company relying upon any NARUC reports or other studies for the exclusion from or inclusion in rates of a portion of its EEI dues? If so, please provide a copy of such report and indicate how the report's recommendations have been included in its filing.
 - Do any of the Company's personnel actively participate on Committees and/or do any other work for any industry organization to which the Company belongs? a. If so, state specifically which employees participate, how they are compensated for their time (amount and source of compensation), and the purpose and accomplishments of any such association related work. b. List any and all reimbursements received from industry associations, for work performed for such organizations by Company employees.

⁹⁵ The Huffington Post, “This Messaging Guru Is Helping Utilities Clean Up Their Appearance” available at http://www.huffingtonpost.com/entry/messaging-utilities-solar-power_us_56f45cd6e4b014d3fe22b572

⁹⁶ The Huffington Post, “This Messaging Guru Is Helping Utilities Clean Up Their Appearance” available at http://www.huffingtonpost.com/entry/messaging-utilities-solar-power_us_56f45cd6e4b014d3fe22b572